United Nations A/62/294

General Assembly

Distr.: General
23 August 2007

Original: English

Sixty-second session
Items 130, 139 and 142 of the provisional agenda*

Proposed programme budget for the biennium 2008-2009

Administration of justice at the United Nations

Administrative and budgetary aspects of the financing of the United Nations peacekeeping operations

Administration of justice

Report of the Secretary-General

Summary

In its resolution 61/261, the General Assembly decided to establish a new, independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice for the United Nations. The new system is to be implemented no later than January 2009. In the resolution and in a related decision (61/511 B), the Assembly requested the Secretary-General to provide supplementary details and background information on the proposed new system.

The present report consolidates those requests and includes detailed financial implications for the introduction of the new system. It also reflects the results of comparative research and analysis, as well as extensive consultations with staff, managers and representatives of the funds and programmes of the United Nations system. The details of the present report are fully consistent with the provisions contained in the note by the Secretary-General (A/61/758) in which he comments on the recommendations contained in the report of the Redesign Panel (A/61/205).

In the present report, the Secretary-General sets out the essential elements of the legal framework for the new justice system and provides additional detail on specific processes. These include the nomination and selection of judges, draft elements of the Tribunal statutes and proposed details for disciplinary procedures, management evaluation and staff legal assistance under the new system. The Secretary-General requests that the General Assembly give due consideration to these proposals and approval of the resources necessary under both the proposed programme budget for the biennium 2008-2009 of $16,644,000 (before recosting) and the peacekeeping support account for the period from 1 January to 30 June 2009 of $811,100, for full implementation of the system within the prescribed time frame.

* A/62/150.

07-48874 (E) 250907

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I. Introduction

1. In section IV of its resolution 59/283, the General Assembly decided that the Secretary-General should form a panel of external and independent experts to consider redesigning the system of administration of justice. The Redesign Panel was established and its report was transmitted to the Assembly (A/61/205). In the resolution, the Assembly also requested the Secretary-General to submit his comments on the recommendations contained in the report of the Redesign Panel, along with the estimate of time and resources required for implementation of the recommendations. The note by the Secretary-General (A/61/758) reflected the collective views of the staff and management.

2. The General Assembly subsequently considered the report of the Redesign Panel, the note by the Secretary-General, the related report of the Advisory Committee on Administrative and Budgetary Questions (A/61/815) and a number of other reports, including one on the implementation of the measures contained in Assembly resolution 59/283.

3. In its recent resolution 61/261, the General Assembly welcomed the report of the Redesign Panel and the note by the Secretary-General and decided to establish a new, independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice. The new system is to be implemented no later than January 2009. In paragraph 32 of the resolution, the Assembly listed 12 separate issues on which the Secretary-General was requested to report providing additional information, which is to be submitted to the Assembly for its consideration at the main part of the sixty-second session. In its decision 61/511 B, adopted at the recommendation of the Sixth Committee, the Assembly also requested additional information, including draft elements of a statute or statutes of the first instance and appellate instance.

4. In resolution 61/261, the General Assembly also requested the Secretary-General to submit a report on the resources required for the implementation of the resolution for consideration at the second part of its resumed sixty-first session. The report (A/61/891) was issued on 3 May 2007 and was subsequently considered by the Advisory Committee on Administrative and Budgetary Questions, which submitted its comments on 1 June 2007 (see A/61/936). Those two reports were not considered by the Fifth Committee during the sixty-first session. The financial implications contained in annex VIII of the present report indicate the requirements provided in the present report, as well as those requested by the Secretary-General in his report (A/61/891).

5. The present report responds to the above-mentioned requests. It builds upon the position taken by the Secretary-General in his note (A/61/758) to accept most of the Redesign Panel's recommendations, as further elaborated upon at the special session of the Staff-Management Coordination Committee held in January 2007. The present report also reflects the recommendations of the working group on disciplinary proceedings, which were approved at the twenty-eighth session of the Staff-Management Coordination Committee, held in June 2007, and the additional agreements reached in the course of that session. To the greatest extent possible, the Secretary-General has sought to convey in the present report a united position, reflecting the collective agreement of staff, management and of the funds and

programmes.[1] However, in some isolated instances, full agreement has not been possible and this is reflected in the present report.

II. Overview

6. In his note (A/61/758), the Secretary-General emphasized that a transparent, impartial and effective system of administration of justice was a necessary condition for ensuring fair and just treatment of United Nations staff. The need to provide a functioning, well-resourced system of internal justice is essential to the Organization in view of the fact that staff members have no legal recourse to national courts in respect of employment-related grievances. As an organization involved in setting norms and standards in the area of the rule of law, the United Nations has a particular obligation to offer its own staff a system of justice that fully complies with applicable international human rights standards and delivers timely, effective and fair justice. Moreover, establishing an internal justice system that enjoys the confidence of both staff and management is essential to promoting mutual trust and enhancing accountability which, in turn, will strengthen the Organization. Finally, the internal justice system needs to adapt to the changing workforce of an increasingly global Organization and be structured in a way that affords effective access to it for all staff members, wherever they are located.

7. The Secretary-General strongly welcomes therefore the General Assembly's endorsement of that vision and its commitment to establishing a better system of administration of justice in the United Nations, as reflected in its resolution 61/261 and its decision 61/511 B.

8. To ensure that each of the elements identified by the General Assembly as being integral to the new system, including independence, transparency, professionalism, adequate resourcing and decentralization, is fully realized, a number of critical decisions will need to be taken by the Assembly during the main part of its sixty-second session so that the foundations for the new system may be put in place by January 2009, the agreed implementation deadline. Moreover, during 2008, it will be necessary to recruit and train individuals who will play key roles in the development and implementation of the new justice system.

9. The present report sets out the essential elements of the legal framework for the new administration of justice system and provides further details on specific processes in the justice system (namely, the nomination and selection of judges, the proposed management evaluation function, the disciplinary procedures, the proposed draft elements of the statutes of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal and the proposals for the rules of the Tribunals and their Registries). The report reflects extensive comparative research and analysis, as well as in-depth consultation with the funds and programmes, and the staff and management of various offices of the Secretariat.

10. For purposes of clarity, the present report basically follows the sections set out in the note by the Secretary-General (A/61/758). Section III below provides an

[1] For the purpose of the present report, the funds and programmes consist of the United Nations Children's Fund, the United Nations Development Programme, the United Nations High Commissioner for Refugees, the United Nations Population Fund and the United Nations Office for Project Services.

analysis of the proposed new scope and the rationale for a strengthened capacity for staff legal assistance. Section IV addresses the various aspects of the informal system, including the creation of the Mediation Division and the terms of reference for the single, integrated Office of the United Nations Ombudsman. Section V explains in detail (along with the relevant annexes) the key attributes of the formal system, including proposals for nominating and selecting the judges, draft elements of the statutes and the rules of the United Nations Dispute Tribunal and of the United Nations Appeals Tribunal, and the proposed disciplinary proceedings. Section VI outlines the measures needed for the smooth transitioning between two very different systems of internal justice. Section VII specifically addresses those pieces of the system that will be created in peacekeeping missions and special political missions. Section VIII addresses financial implications and cost-sharing arrangements. Section IX contains recommendations for action to be taken by the General Assembly.

11. It should be noted that the financial implications contained in the present report have been prepared on the basis of the note by the Secretary-General (A/61/758), with the following variances:

(a) The date of implementation in the present report is 1 January 2009, in the note it is 1 January 2008;

(b) The posts for Ombudsmen in Geneva, Vienna and Nairobi have been requested separately in the report of the Secretary-General (A/61/891);

(c) The posts for the Mediation Division have also been requested separately in the report of the Secretary-General (A/61/891);

(d) An additional seven posts have been requested in the Office of Administration of Justice, as well as resources for a computer software package. Two additional Legal Officers have been requested at the P-2 level; the General Service (Principal level) is no longer required now that additional General Service (Other level) posts have been requested; five additional General Service (Other level) have been requested for an Information Technology Assistant and four Legal/Administrative Assistants; an additional position (Local level) has been requested to carry out legal/administrative work in the Registry in Nairobi. The P-5 Registrar for the United Nations Administrative Tribunal has been reclassified at the D-1 level, in line with the level of the Registrar for the United Nations Dispute Tribunal, and the P-5 New York Registrar is no longer required as the two D-1 Registrar posts have now been requested. The P-4 Registrar for Nairobi has been reclassified at the P-5 level, in line with the level of the Registrar for Geneva. Four P-3 legal research officers have been reclassified at the P-4 level to ensure that adequate resources are available to support the judiciary;

(e) An additional two posts (General Service (Other level)) have been requested in the Office of the United Nations Ombudsman;

(f) An additional three posts have been requested for peacekeeping operations at the National Officer level in the Office of Staff Legal Assistance to provide assistance to national staff, along with the reclassification of three posts from the P-3 level to the P-4 level in the Office of the United Nations Ombudsman to cover regional responsibilities and other specific needs, such as the broader linguistic requirements of the region.

12. The Secretary-General hopes that the Sixth Committee's review of various legal aspects of the system, in accordance with General Assembly decision 61/511 B, taking into account the relevant recommendations made by the Advisory Committee on Administrative and Budgetary Questions in its report (A/61/815, paras. 11, 45, 46 and 53) and the Fifth Committee's review of the individual requests contained in Assembly resolution 61/261, will provide the Assembly with a basis for agreeing on an adequate funding and staffing base for the new justice system. On that basis, the Secretary-General will be in a position to plan for full implementation of the new system, which will be established in January 2009.

III. A unified system

A. Proposed scope of the new system

13. In paragraph 32 (a) of resolution 61/261, the General Assembly requested an in-depth analysis regarding the scope of persons who might be covered by the new system of administration of justice.

14. In his note (A/61/758), the Secretary-General recommended that the following individuals would have access to the informal and formal system of justice: (a) staff members; (b) former staff members and persons making claims in the name of deceased staff members; and (c) all persons who perform work by way of their own personal service for the Organization, no matter the type of contract by which they are engaged, but not including military or police personnel in peacekeeping operations, volunteers (other than United Nations Volunteers), interns, type II gratis personnel (as defined in administrative instruction ST/AI/1999/6), or persons performing work in conjunction with the supply of goods or services extending beyond their own personal service or pursuant to a contract entered into with a supplier, contractor or consulting firm.

15. Table 1 shows that the number of staff members in the Secretariat and in the funds and programmes, as of 31 March 2007, totalled 60,722. Among those staff members, 34,517 work in the Secretariat and 26,205 in the funds and programmes.

Table 1
Staff of the Secretariat and of the funds and programmes (as of 31 March 2007)

Entity	*Number of staff*
Secretariat	
Headquarters	11 243
Regional commissions	2 581
Peacekeeping operations	18 563
Criminal tribunals	2 130
Subtotal for the Secretariat	**34 517**
Funds and programmes	
United Nations Children's Fund	9 913
United Nations Development Programme	7 485[a]
United Nations High Commissioner for Refugees	6 297
United Nations Population Fund	1 659
United Nations Office for Project Services	851
Subtotal for funds and programmes	**26 205**
Total	**60 722**

[a] This figure includes staff of the United Nations Development Fund for Women and the United Nations Capital Development Fund.

16. The category of non-staff personnel covered in paragraph 14 above (hereafter known as "non-staff personnel") includes United Nations Volunteers, consultants, individual contractors and daily paid workers. Table 2 shows that during the period from 1 April 2006 to 31 March 2007, the Secretariat employed 13,671 non-staff personnel, whereas the funds and programmes employed approximately 24,161. Additionally, there were 7,629 United Nations Volunteers during the same period.[2]

[2] The expanded scope would not include military or police personnel in peace operations, volunteers (other than United Nations Volunteers), interns, type II gratis personnel, or persons performing work in conjunction with the supply of goods or services extending beyond their own personal service or pursuant to a contract entered into with a supplier, contractor or consulting firm (see A/61/758, para. 10).

Table 2
Non-staff engaged by the Secretariat and by the funds and programmes, from 1 April 2006 to 31 March 2007

Entity	*Category*	*Number of non-staff*[a]
Secretariat		
Headquarters/regional commissions	Consultants	3 395
	Individual contractors	1 798
Peacekeeping operations	Individual contractors	5 082
	Consultants	84
	Daily paid workers[b]	3 312
Subtotal for Secretariat		**13 671**
Funds and programmes		
United Nations High Commissioner for Refugees	Consultants	254
United Nations Children's Fund	Individual contractors/consultants	8 976
United Nations Development Programme	Service contract/special service agreement	12 931[c]
United Nations Population Fund	Individual contractors	2 000
Subtotal for funds and programmes		**24 161**
United Nations Volunteers		7 629
Total		**45 461**

[a] These figures were provided by each of the respective offices, funds and programmes.
[b] Workers paid on a daily basis, as opposed to those who are paid on completion of a given assignment or pre-determined contract length.
[c] This number represents the total as at 31 March 2007, not cumulative total for the year.

17. In total, the proposed scope of the new administration of justice system would give access to the informal system, the United Nations Dispute Tribunal and the United Nations Appeals Tribunal to over 100,000 staff and non-staff personnel. The United Nations Appeals Tribunal, acting as an administrative tribunal, will also continue to receive applications in respect of decisions made by the United Nations Joint Staff Pension Board, or made by the executive heads of the organizations which have accepted the jurisdiction of the United Nations Administrative Tribunal.

18. The Secretary-General considers that it is incumbent upon the Organization, as a good employer, to ensure that individuals who perform work by way of their own personal service for the Organization, no matter what type of contract they possess, have meaningful recourse to dispute resolution. This is consistent with the espoused aims of the redesign of the system of justice: to improve the accessibility to the system not only for staff but also for certain non-staff personnel who perform services for the Organization, no matter where they are located or what their function. The Secretary-General considers that disputes involving non-staff personnel would be more effectively addressed if they were to have access to the same justice system as staff members.

19. At present, the mechanism for resolving disputes involving consultants and individual contractors is ad hoc arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), as set out in the "General Conditions of Contracts for the Services of Consultants or Individual Contractors" (hereafter, the "General Conditions") (see administrative instruction ST/AI/1999/7/Amend.1, annex). The use of ad hoc arbitration as the mode of resolving disputes arising from contracts with consultants and individual contractors derives from article VIII, section 29, of the Convention on the Privileges and Immunities of the United Nations, which states that "[t]he United Nations shall make provisions for appropriate modes of settlement of: (a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party; ...". In order to provide an appropriate mode of settlement of any disputes arising out of contracts, the United Nations has regularly made provision in its contracts for recourse to arbitration.[3]

20. The requirement for a dispute settlement clause is reflected in paragraph 16 of the General Conditions, which provide that while best efforts should be made to amicably settle any dispute arising out of the contract in question, if this should fail, the dispute may be referred by either party to arbitration in accordance with the UNCITRAL Arbitration Rules. Under the UNCITRAL Arbitration Rules, an arbitral panel may consist of either a single arbitrator or three arbitrators. During the period from 1996 through 2006, 16 claims by consultants or individual contractors submitting notices of arbitration were referred to the Office of Legal Affairs. That figure does not include claims that may have been settled by an office or department of the Secretariat or by a fund or programme without reference to the Office of Legal Affairs. Of the 16 claims, six cases were settled, eight cases did not proceed to arbitration because the claimant failed to pursue the case after submitting a notice of arbitration and two cases proceeded to arbitral proceedings.

21. The recourse procedures for United Nations Volunteers are governed by the provisions set out in appendix XVI of the Conditions of Service for International United Nations Volunteers. A United Nations Volunteer may appeal an administrative decision to the United Nations Volunteers Executive Coordinator and, subsequently, to the Administrator of the United Nations Development Programme (UNDP). If the United Nations Volunteer wishes to contest the Administrator's decision further, the matter will be sent to arbitration.

22. The small number of formal requests for settlement of disputes by arbitration would indicate that arbitration may not be an effective means of recourse owing to the considerable financial costs and other practical obstacles associated with arbitral proceedings. It also indicates that there is a need to provide a system of dispute resolution that is more accessible to non-staff personnel. Consideration could also be given to establishing expedited procedures for resolving claims filed by non-staff personnel, or involving small claims that would be filed by staff as well as non-staff personnel.

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[3] See *Yearbook of the International Law Commission, 1967*, vol. II, p. 296, and the *United Nations Juridical Yearbook, 1976*, pp. 168-176. See also the report of the Secretary-General entitled "Procedures in place for implementation of article VIII, section 29, of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946" (A/C.5/49/65). The General Assembly took note of the report in its decision 50/503.

B. Office of Staff Legal Assistance

23. United Nations staff are precluded from access to courts under national jurisdictions in disputes relating to their terms of employment with the Organization. The United Nations has recognized the importance of providing "advice or assistance and, where appropriate, representation of staff members by counsel as an important element in the administration of justice in the United Nations" for nearly two decades, with the establishment of the Panel of Counsel (see instruction ST/AI/351 and Amend.1), members of which provide assistance to staff on a purely voluntary basis.

24. In paragraph 106 of its report (A/61/205), the Redesign Panel noted that the disparity in legal resources available to the management and staff members had created an egregious inequality of arms in the internal justice system. In his note (A/61/758), the Secretary-General agreed with the Redesign Panel's proposal to strengthen legal assistance for staff by ensuring that all counsel had proper legal credentials and that an office of staff legal assistance was adequately resourced with capacity in all major duty stations and peace operations in the field.

25. The Secretary-General's proposal is based on the recognition that, consistent with the principle of making the internal justice system more professionalized, access to legal assistance provided by legally qualified full-time staff will help to ensure that both parties operate on equal footing in the formal justice system. Providing staff with legal counsel proficient in the Staff Rules and Regulations of the United Nations is in the interest of both the staff members and the Organization. Experience has shown that when staff members resort to outside counsel for representation, lack of familiarity with the legal framework applicable to the United Nations system can contribute to difficulties in the resolution of disputes.

26. Among the points of agreement reached by the Sixth Committee, to which the General Assembly refers in its decision 61/511 B, was the recognition that "legal assistance should continue to be provided to persons eligible under the system of administration of justice, but should be strengthened" (see A/C.5/61/21, appendix I). In paragraph 2 (3) of its resolution 61/261, the Assembly agreed that legal assistance for staff should continue to be provided and supported the strengthening of a professional office of staff legal assistance. In addition, the Assembly requested detailed proposals for the strengthening of such an office, including information on practices in the governmental and intergovernmental sectors.

Proposals to strengthen legal assistance for staff

27. If the General Assembly decides to approve the resource requirements for the proposed Office of Staff Legal Assistance, which are included in annex VIII to the present report, the Office would have 11 professional staff, with the capacity to provide advice to over 60,000 staff serving in the Secretariat, funds and programmes. Qualified counsel, through training and professional ethical obligations, are best positioned to assess and refuse to pursue claims that are frivolous or vexatious, thus diminishing the overall litigation load. Furthermore, it is likely that informed professional counsel will discourage litigation that has little chance of success and will advise resolution through the informal system, wherever possible. As agreed at the twenty-eighth session of the Staff-Management Coordination Committee, the adequacy of the staffing of the Office should be

reviewed after two years in the light of experience gained. However, staff representatives have taken the position that the capacity of the Office should be comparable to that available to management so as to ensure the "equality of arms" referred to in the Redesign Panel's report (A/61/205, paras. 14 and 106).

28. In order to establish uniform standards for the provision of legal assistance, a code of conduct should be promulgated, covering all legal officers involved in the administration of justice system, including staff legal officers in the Office of Staff Legal Assistance. The code would address, inter alia, the duties of legal officers to the staff member and as international civil servants.

Legal assistance in national jurisdictions

29. In examining whether employers provide legal assistance to their staff in governmental sectors, it is important to keep in mind that in the context of employers in the jurisdictions of Member States (whether in the governmental or private sector), all employment disputes are governed by the same national legal framework and resolved in the same national courts. Since lawyers qualified to practice in national jurisdictions would already be knowledgeable about the relevant jurisprudence and procedures of the national courts, finding competent lawyers to provide counsel and representation does not impose an onerous burden on employees in the national context. By contrast, United Nations employment disputes are governed by a unique United Nations legal framework and resolved by United Nations mechanisms and judicial institutions, all of which are entirely separate from national laws and national courts. Most lawyers qualified to practice in national jurisdictions would be unfamiliar with the United Nations system. The degree of expertise or experience that legal officers in the Office of Legal Affairs, the Department of Management and in the funds and programmes would have in United Nations administrative law vis-à-vis external lawyers or counsel who may not have a commensurate level of expertise, places staff members at a disadvantage if they are unable to find similarly qualified counsel to advise and represent them.

30. It may be relevant to consider the systems of justice applicable to military service personnel in the national context, who are generally required to resolve claims and disciplinary complaints under military laws and in military courts separate from national laws and national courts. In these circumstances, which seem analogous to those facing United Nations staff members, a number of countries have determined that it is in the interests of justice to provide legal assistance free of charge to military service personnel. A brief survey of legal assistance provided to military service has indicated the following:

(a) In Australia, legal advice is made available to military service personnel at the expense of the Commonwealth throughout the investigation, tribunal and appeals proceedings for disciplinary and criminal offences.[4] Military service personnel may also request legal assistance to prepare complaints about administrative procedures or decisions through a redress of grievance process; the type and duration of legal assistance provided in these cases are subject to approval by the legal office supporting the member's unit.[5] Following a review of the

[4] Report of the Australian Senate Foreign Affairs, Defence and Trade References Committee, "The effectiveness of Australia's military justice system" (June 2005), para. 2.27. Available from http://www.aph.gov.au/Senate/committee/fadt_ctte/miljustice/report/report.pdf.

[5] Ibid., para. 10.45.

Australian military justice system in 2005, a Director of Defence Counsel Services was recently appointed to improve the provision of defence counsel services to Australian military personnel;[6]

(b) In the United States of America, the Army established a Trial Defense Service to provide "defense counsel to soldiers pending court martial, non-judicial punishment, administrative separation, and similar adverse action".[7] For example, Army personnel are entitled to representation by a military defence counsel at administrative boards and may also receive legal advice on suspensions of unfavourable personnel actions.[8] The Naval Legal Services Office provides similar legal services to active duty Navy, Marine Corps and Coast Guard service members;[9]

(c) In Canada, the Directorate of Defence Counsel Services provides general legal advice to personnel during summary trials, which deal with minor disciplinary matters.[10] While not officially mandated to advise on administrative matters, the Director of Defence Counsel Services, in practice also provides advice on the procedures for the redress of grievances.[11]

31. Other national examples have also been reviewed and, although instructive, may be less directly comparable for United Nations purposes. For example, in South Africa, "every person subject to the Code has the right to (a) legal representation of own choice at his or her own expense, or to be assigned military defence counsel at State expense when he or she is to appear before or to be tried by a Court of a Military Judge or Senior Military Judge; and (b) to consult with his or her legal representative or with a military defence counsel prior to making any election to be heard at a disciplinary hearing".[12] Another example is the Russian military system, which is independent and subordinate only to the Constitution. The body of the Legal Service of the Armed Services provides counsel for servicemen and civilian personnel and their family members in personal affairs, and in protecting their rights in relation to their duties. The military unit also provides legal support with regard to contractual and claims issues.

32. In certain national jurisdictions, labour unions also provide legal assistance for employees in employment disputes. In paragraph 26 of its resolution 59/283, the General Assembly invited "staff representatives to explore the possibility of establishing a staff-funded scheme in the Organization that provides legal advice and support to the staff", and this invitation was reiterated in paragraph 24 of its resolution 61/261. The Staff-Management Contact Group, established at the twenty-seventh session of the Staff-Management Coordination Committee, has confirmed that such a system would be neither feasible nor sustainable in the case of the United Nations. Unlike national labour unions that would have a reliable source of

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[6] See http://www.defence.gov.au/defencemagazine/editions/200703/sections/miljust.htm.

[7] R. Peter Masterton, "The defense function: the role of the U.S. Army Trial Defense Service", the Army Lawyer, Department of the Army Pamphlet 27-50-340 (March 2001).

[8] Ibid., pp. 12 and 16.

[9] http://www.jag.navy.mil/FieldOffices/NLSO3.htm.

[10] Director of Defence Counsel Services manual, pp. 1-4 and 2-3. Available from http://www.forces.gc.ca/jag/military-justice/ddcs/publications/manual/complete_e.pdf.

[11] Director of Defence Counsel Services, annual report of the Director of Defence Counsel Services for the period from 1 April 2001 to 31 March 2002, para. 16. Available from http://www.dnd.ca/jag/military_justice/ddcs/publications/DDCSAnnualReport2001-2002_e.pdf).

[12] See http://polity.org.za/attachment.php?aa_id=3459.

funding through membership dues where union membership is mandatory, United Nations staff members are not required to become dues-paying members of United Nations staff associations. Furthermore, there is no single United Nations union, but rather a network of individual staff representative bodies and associations, many of which are quite small. Even if funding could be identified, such a system would likely rely on use of outside counsel, which, as mentioned earlier, has inherent limitations.

Legal assistance in the intergovernmental sector

33. The different organizations and bodies of the United Nations system offer varying degrees of legal assistance to staff members who submit appeals or who are subject to disciplinary proceedings. Some organizations (the World Food Programme (WFP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the International Maritime Organization, the United Nations Industrial Development Organization and the International Telecommunications Union (ITU)) do not have a formal system of legal or financial assistance but provide for current or former staff to act as counsel. Some organizations (WFP, ITU and the Pan American Health Organization) also provide for staff associations to offer assistance or facilitate the retention of legal services. Staff from a number of organizations within the United Nations common system (including the Food and Agriculture Organization of the United Nations (FAO), UNESCO, UNIDO and UNRWA) have sought assistance from the Panel of Counsel in New York. Others, including FAO, offer their own Panel of Counsel, which is primarily composed of volunteers. The Food and Agriculture Organization of the United Nations, UNESCO, UNIDO and UNRWA could continue to have access to the Office of Staff Legal Assistance and contribute to it accordingly, based on agreed cost-sharing arrangements. It should also be noted that all of the above-mentioned organizations in the United Nations common system do not have a professionalized two-tiered administration of justice system.

IV. Informal system of justice

34. The Secretary-General notes the General Assembly's recognition that informal resolution of conflicts is a crucial element in the new system. Reinforcing informal dispute resolution mechanisms will help the Organization avoid unnecessary litigation. In its resolution 61/261, the Assembly decided to create a single integrated and decentralized Office of the Ombudsman for the United Nations Secretariat, funds and programmes (para. 12). It also requested the Secretary-General to identify three posts for the Office of the Ombudsman for Geneva, Vienna and Nairobi (para. 13) and decided to formally establish a Mediation Division located at Headquarters within the Office of the United Nations Ombudsman to provide formal mediation services for the United Nations Secretariat, funds and programmes (para. 16). The Assembly further requested the Secretary-General to report on "proposals on the nomination and selection process for the Ombudsmen [...], taking into account the recommendations of the Advisory Committee on Administrative and Budgetary Questions ..." (para. 32 (b)) and on "revised terms of reference for the Ombudsman, as appropriate, taking into account the proposed changes and suggested locations" (para. 32 (c)).

35. In the context of ongoing efforts towards harmonization and cooperation, the Office of the United Nations Ombudsman, the Office of the Joint Ombudsmen (UNDP/the United Nations Population Fund (UNFPA)/the United Nations Children's Fund (UNICEF)/the United Nations Office for Project Services (UNOPS)) and the Office of the Mediator, the Office of the United Nations High Commissioner for Refugees (UNHCR), are encouraging standards of practice, operating guidelines, reporting categories and databases. In so doing, they have drawn on the expertise of the network of Ombudsmen and mediators of the United Nations and related international organizations and other relevant professional associations. Offices will share travel plans to provide inter-agency support and optimize resource use. At the regional level, closer collaboration is foreseen in anticipation of the establishment of the regional ombudsman offices in Nairobi, Geneva and Vienna.

A. A single, integrated and decentralized Office of the Ombudsman for the Secretariat, funds and programmes

36. The offices concerned (the Office of the United Nations Ombudsman, the Office of the Joint Ombudsmen (UNDP/UNFPA/UNICEF/UNOPS) and the Office of the Mediator, UNHCR, have drawn up a preliminary road map to achieve the goal established by the General Assembly in the most coordinated and least disruptive manner in order to sustain the current levels of effectiveness and efficiency of the respective Offices. It is expected, as indicated in the report of the Redesign Panel, that the integrated office will maintain a direct, dedicated response to and interaction with the funds and programmes through contact with their respective executive heads and staff associations, and will present an annual report to their executive boards.

B. New posts for the Office of the Ombudsman in Geneva, Nairobi and Vienna

37. The Advisory Committee on Administrative and Budgetary Questions noted in its report (A/61/936, para. 16) that the Secretary-General's efforts to identify three posts for the regional ombudsmen, as requested by the General Assembly in paragraph 13 of its resolution 61/261, had not yet been successful. In view of the importance of providing access to the Ombudsman for staff away from Headquarters, the Advisory Committee recommended that the posts requested (1 D-1 each for Geneva and Nairobi and 1 P-5 for Vienna) be established as temporary positions funded through general temporary assistance for the period 1 July to 31 December 2007. This request was not considered by the Fifth Committee during the sixty-first session of the Assembly.

C. Creation of the Mediation Division

38. In accordance with the recommendation contained in the report of the Advisory Committee on Administrative and Budgetary Questions (A/61/936, para. 18), the Fifth Committee will consider the creation of posts for the establishment of the Mediation Division within the Office of the United Nations Ombudsman during the sixty-second session of the General Assembly in the context of the programme budget for the biennium 2008-2009. In the interim, the Office of the United Nations Ombudsman, and the Office of the Joint Ombudsmen (UNDP/UNFPA/UNICEF/UNOPS) and the Office of the Mediator, UNHCR, will continue to provide informal mediation services from existing resources.

39. It is anticipated that the Mediation Division will receive and administer voluntary joint requests for mediation and act as a neutral third party to assist the parties in reaching a mutually acceptable settlement. The Ombudsman will identify, at an early stage, cases that may be amenable to mediation. Voluntary mediation will be conducted when the parties have indicated their agreement to proceed and may be held at anytime before a matter proceeds to final judgment in the formal system.

40. The Mediation Division will also conduct mediation referred to it by order of the United Nations Dispute Tribunal. Such a referral would require the parties to make an effort in good faith to resolve their dispute by mediation within a prescribed period of time. However, a party would not be compelled to accept an agreement; if no agreement has been reached upon the expiry of the prescribed period, the proceedings under the formal justice system would continue. Mediation could be held at any time before a matter proceeds to final judgment in the United Nations Dispute Tribunal.

41. Referral of mediation from the United Nations Dispute Tribunal to the Ombudsman is a significant departure from existing practice, where mediation services provided by the Office of the United Nations Ombudsman, the Office of the Joint Ombudsmen (UNDP/UNFPA/UNICEF/UNOPS) and the Office of the Mediator, UNHCR are not linked to the formal internal justice system.

42. In all cases of mediation, whether requested by the parties or ordered by the United Nations Dispute Tribunal, verbal or written statements made during the mediation process should remain confidential by all concerned and inadmissible in any subsequent litigation. The principle of confidentiality is important to encourage the frank discussion of issues necessary for the resolution of disputes. While mediation is ongoing, both parties would be required to refrain from taking further action in the informal and formal systems. When a case has reached the formal justice system and is undergoing mediation, the filing deadlines would be suspended accordingly.

43. An agreement arising out of mediation is binding and automatically enforceable once it is set out in writing and signed by both parties. A mediated agreement would preclude both parties from pursuing further recourse in the informal and formal system. If one party fails to comply promptly with the terms of the agreement, the other party has the right to request an injunctive order from the United Nations Dispute Tribunal to enforce the implementation of the agreement. Guidelines for the operation of the Mediation Division will be circulated in the form of an administrative instruction, including rules of procedures and time frames.

44. The details of the Mediation Division within the Office of the United Nations Ombudsman have been outlined in the report of the Secretary-General (A/61/891). The Division will comprise a chief mediator at the D-1 level, two full-time senior mediators at the P-5 level and two General Service (Other level) posts. The Chief Mediator will have overall responsibility for the mediation services to be provided by the new Division, as well as for ensuring that the mediation agreements reached by the parties reflect true agreement and adhere to principles and best practices of meditation. The Chief Mediator will also maintain a list of international professional mediators. The two senior mediators will support the Chief Mediator by conducting the mediation and drafting the agreements of the parties. All mediators must have appropriate training and professional qualifications.

D. Nomination and selection process for the United Nations Ombudsman

45. In his note (A/61/758, para. 13) on the report of the Redesign Panel, the Secretary-General agreed with the Panel's recommendation on the selection and appointment of the United Nations Ombudsman. In paragraph 58 of its report (A/61/205, para. 58) the Panel proposed that the Secretary-General would appoint the United Nations Ombudsman and that the Ombudsman for the funds and programmes would be appointed by the executive heads of those bodies from a list of candidates compiled by a selection committee. The selection committee would comprise representatives of management and staff, as well as outside ombudsmen.

46. In its consideration of the aforementioned reports, the Advisory Committee on Administrative and Budgetary Questions emphasized the need to ensure that qualification requirements were met and that transparency in the nomination and selection processes was promoted. It also stressed the importance of setting clear, relevant and verifiable qualifications and recommended that the selection committee develop procedures to verify the qualifications of prospective candidates. The Advisory Committee also indicated that due attention should be paid to ensuring wide geographic representation, both of the members of the selection committee and of the candidates placed on the lists submitted to the executive heads for selection. The Committee further added that efforts should be made to ensure that the opportunities for those positions were widely circulated in order to ensure a large pool of potential candidates from which to draw, as well as to maintain the technical nature of the selection committee.

47. Given that the term of the first United Nations Ombudsman ended in July 2007, in the spirit of the Redesign Panel recommendations, the Secretary-General decided to move ahead with a broadly inclusive and transparent selection process. Following consultation with the relevant Main Committees of the General Assembly and the Advisory Committee, the Secretary-General wrote to all Member States and relevant professional associations, seeking appropriate candidacies. Additionally, a broadcast posted on the United Nations Intranet encouraged qualified internal applicants to come forward.

48. A special selection committee, which would include representatives of staff and management and outside experts, will be convened. The selection committee is expected to vet applications, prepare a shortlist of candidates, participate in the interview process and make a final recommendation to the Secretary-General.

49. At its twenty-eighth session, which was held in Cyprus in June 2007, the Staff-Management Coordination Committee welcomed the decision of the Secretary-General to use the selection procedures recommended by the Redesign Panel for the upcoming selection of a new United Nations Ombudsman.

E. Revised terms of reference for the Office of the Ombudsman

50. The current terms of reference of the Office of the United Nations Ombudsman (see Secretary-General's bulletin ST/SGB/2002/12) were drafted in a broad and encompassing manner. They include provision for making "available the services of an impartial and independent person to address the employment-related problems of staff members". Within the limits of their existing resource constraints, the Office of the United Nations Ombudsman, the Office of the Joint Ombudsmen (UNDP/UNFPA/UNICEF/UNOPS) and the Office of the Mediator, UNHCR, have used different approaches, including mediation, for the informal resolution of disputes (see A/61/524, paras. 6, 9 and 39).

51. A close examination of those terms of reference indicates that some of the new elements, which expand the functions of the Office of the Ombudsman, will have to be incorporated in revised terms of reference. These new elements include the creation of a single, integrated and decentralized Office of the Ombudsman for the Secretariat, funds and programmes, the establishment of a new Mediation Division, which will provide, inter alia, formal mediation services in employment disputes, the monitoring of maladministration and the identification of broad systemic issues.

52. The above proposals to enhance and strengthen the terms of reference of the Office of the United Nations Ombudsman will be discussed with the Contact Group on the Administration of Justice, created at the recent session of the Staff-Management Coordination Committee, to ensure that staff and management have an appropriate input into the design and functioning of the Office.

V. Formal system of justice

53. The elements of the proposed formal system of internal justice were outlined in paragraphs 17 to 36 of the note by the Secretary-General (A/61/758). The General Assembly agreed to:

(a) The establishment of a formal system comprising two tiers, consisting of a first instance and an appellate instance, the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, respectively, which would render binding decisions and order appropriate remedies (resolution 61/261, para. 19);

(b) The replacement of the existing advisory bodies within the current internal justice system, including the Joint Appeals Boards, the Joint Disciplinary Committees and other bodies, as appropriate, by the Dispute Tribunal (resolution 61/261, para. 20);

(c) The development of an efficient, effective and impartial management evaluation function to allow the Administration the possibility of correcting or overturning previous administrative decisions, prior to a complainant's making a claim to the Dispute Tribunal.

54. The General Assembly asked for additional detail on several different aspects of the formal internal justice system, relating to (a) the nomination and selection of Dispute Tribunal and Appeals Tribunal judges, (b) the management evaluation function, (c) disciplinary proceedings, (d) the draft elements of the statutes for the two Tribunals (e) the Dispute Tribunal registries and interim rules and (f) arrangements for the current members of the Administrative Tribunal. Information on these matters are set out in the subsections below.

A. Nomination and selection of United Nations Dispute Tribunal and United Nations Appeals Tribunal judges

55. The procedures used to nominate and select the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, and the criteria used for selection, will be essential for ensuring that the judges sitting on the two Tribunals are of the highest calibre and have the requisite expertise, judgement and experience. This in turn will enhance the confidence of managers and staff in the new justice system.

56. In order to achieve these objectives, the Redesign Panel proposed that an Internal Justice Council be established to compile lists of persons eligible for appointment to the judicial positions envisaged for the two Tribunals. The Redesign panel added that the Council should consist of:

> a staff representative, a management representative and two distinguished external jurists, one nominated by the staff and one by management, and [be] chaired by another distinguished external jurist appointed by the Secretary-General after consultation with the other four members.[13]

57. The Dispute Tribunal judges would be appointed by the Secretary-General from a list prepared by the Internal Justice Council. The Appeals Tribunal judges would, on the other hand, be appointed by the General Assembly from the list compiled by the Internal Justice Council and submitted by the Secretary-General. No two members of either Tribunal would be nationals of the same State.

58. The Redesign Panel recommended criteria for the appointment of the judges, namely that the individuals:

(a) Be of high moral character;

(b) Have the qualifications and recognized competence necessary for appointment to high judicial office;

(c) Have at least 10 years' relevant professional experience in the case of the judges of the Dispute Tribunal and at least 15 years in the case of Appeals Tribunal judges.

59. As for the terms of office, the Panel proposed that judges of the Dispute Tribunal and of the Appeals Tribunal should be:

> appointed for a term of five years, renewable once only, and be removable only by the General Assembly, at the request of the Secretary-General, and only on grounds of proven misconduct or incapacity. Furthermore, a person

[13] A/61/205, para. 127.

> appointed as a judge should not be eligible for appointment to any other post within the United Nations, except another judicial post.[14]

60. As indicated in paragraph 32 of his note (A/61/758), the Secretary-General fully supports the recommendations of the Redesign Panel concerning the nomination and selection of the judges of the Dispute Tribunal and the Appeals Tribunal. In this connection, the Advisory Committee on Administrative and Budgetary Questions, in its consideration of the report of the Redesign Panel and the related note by the Secretary-General, expressed its reservation that:

> it is not clear how the Internal Justice Council would be constituted, the precise role it would play and the process that would be applied for the selection of its members. The Committee is concerned that very little emphasis has been placed on the legal and judicial expertise, experience and qualifications of its members, which are of paramount importance. It reiterates its comments, made in paragraph 30 ..., about the necessity for a fair, impartial and transparent process that could capture a large pool of potential candidates with the requisite professional qualifications and that could ensure that appropriate measures for the verification of the qualifications of the candidates are in place.[15]

61. The General Assembly, in its resolution 61/261, subsequently requested the Secretary-General to present proposals for the process of nominating and selecting the judges, taking into account the above concerns of the Advisory Committee on Administrative and Budgetary Questions.

Composition and functions of the Internal Justice Council

62. In evaluating the proposals of the Redesign Panel, it is instructive to consider the practice of nominating and selecting judges for the administrative tribunals of other international and regional organizations. The European Union Civil Service Tribunal, created in 2005 to adjudicate disputes between the European Union and its civil servants, utilizes a mechanism similar to the proposed Internal Justice Council to review and identify qualified judicial candidates.[16] Applications for seats on the Civil Service Tribunal, which may be submitted by any person who is a European Union citizen and meets the judicial qualifications, are reviewed by a committee comprising seven persons chosen from among former members of the European Union Court of Justice and the Court of First Instance, as well as lawyers of recognized competence. The committee is authorized to advise on the suitability of candidates and provide a list of candidates having the most suitable high-level experience. The list contains the names of at least twice as many candidates as there are judges. The judges are appointed from that list by the Council of the European Union. The Council is to appoint judges from among nationals of the member States, on as broad a geographical basis as possible, ensuring a balanced composition with respect to the national legal systems represented.

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[14] Ibid., para. 130.

[15] A/61/815, para. 48.

[16] The internal justice system for European Union civil servants is similar to the new system of justice envisaged for the United Nations in that it contains more than one tier of judicial review. The first level is conducted by the Civil Service Tribunal. Its decisions are subject to appeal on questions of law only to the Court of First Instance and, in exceptional cases, to review by the European Court of Justice.

63. In the nomination of judges for the administrative tribunals of the following four organizations, judicial candidates are nominated after consultation with an advisory body similar to the proposed Internal Justice Council or with other entities:

(a) *World Bank*. The President appoints an advisory committee composed of four members with relevant experience, which is consulted on the nomination of judicial candidates. The members of the World Bank Administrative Tribunal are appointed by the Board of Executive Directors from a list of candidates nominated by the President of the Bank after such consultations;

(b) *Asian Development Bank (ADB)*. The President appoints an advisory committee composed of at least five members, including the General Counsel, the Secretary, the Chair of the Staff Council and such other members as may be appointed by the President. The committee may include members who do not have any affiliation with ADB. The General Counsel acts as Chair of the Committee. The members of the Tribunal are appointed by the Board of Directors from a list of candidates drawn up by the President of the Bank after such consultations;

(c) *International Labour Organization (ILO)*. The Office of the Legal Adviser compiles a list of eligible candidates for the ILO Administrative Tribunal, which is submitted to the Director-General. The members of the Administrative Tribunal are appointed by the ILO Conference on the basis of nominations by the Director-General;

(d) *International Monetary Fund (IMF)*. The President of the Tribunal is appointed by the Managing Director after consultation with the Staff Association and following approval of the Board; two associate members and two alternates are appointed by the Managing Director after appropriate consultation.

64. Regarding the selection of the Internal Justice Council members, staff and management at the twenty-eighth session of the Staff-Management Coordination Committee agreed that the staff members who are separately designated by staff and management to serve on the Council should have appropriate competence and relevant experience in order to successfully carry out their tasks. The three external jurists serving on the Council should be selected from among individuals who meet the profiles used to identify the members of the Redesign Panel, such as a pre-eminent judge or former judge with administrative law experience; a leading academic in international labour law; and a person with senior management and administration experience in an international organization. Due consideration should also be given to geographic diversity.

65. The Secretary-General considers that the proposed functions of the Internal Justice Council in compiling lists of qualified candidates would be similar to those undertaken by analogous bodies in the European Union, the World Bank and the Asian Development Bank.

Qualifications of judges

66. The appointment criteria for the judges, proposed by the Redesign Panel, are similar to those required by the other tribunals:

(a) *International Labour Organization*. The members of the Tribunal must be persons who hold or have held high judicial office, and account must be taken of the need for overall linguistic balance and equilibrium in terms of different systems of law and geographical representation;

(b) *World Bank*. The members of the Tribunal shall be persons of high moral character and must possess the qualifications required for appointment to high judicial office or be legal experts of recognized competence in relevant fields, such as employment relations, international civil service and international organization administration;

(c) *International Monetary Fund*. The members of the Tribunal must possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence;

(d) *Asian Development Bank*. The members of the Tribunal shall be persons of high moral character and must possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence in relevant fields, such as employment relations, international civil service and international organization administration.

67. Following the recent consultations between staff and management in the Staff-Management Coordination Committee, it was agreed that, in addition to the qualifications specified by the Redesign Panel, an express requirement for judicial experience in the field of administrative law (or the equivalent within national jurisdictions) would be included in the selection criteria for the judges of both new Tribunals. This additional requirement reflects the current text of article 3, paragraph 1, of the statute of the United Nations Administrative Tribunal, which came into effect on 1 January 2006, pursuant to General Assembly resolution 59/283, paragraph 40.

68. The Secretary-General notes that the proposed selection criteria for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal are not only comparable to those of other administrative tribunals, but would indeed be set at a higher standard, thereby ensuring the quality and professionalism of the new system.

Terms of office

69. The Redesign Panel proposes that judges of the Dispute Tribunal and of the Appeals Tribunal be appointed for a term of five years, renewable once only. Only the World Bank Tribunal has the same terms of office. The other Tribunals' terms of office are more varied:

(a) *International Labour Organization*. The judges are appointed for a three-year term and, according to practice (this is not provided for in the statute), may be reappointed. There is no limit on the number of reappointments, but the Tribunal has a self-imposed retirement age of 75;

(b) *World* Bank. The members of the Tribunal shall be appointed for a term of five years and may be reappointed for one additional term of five years. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term and may be appointed and reappointed;

(c) *International Monetary Fund*. The President, the associate members and their alternates are appointed for a two-year term and may be reappointed. There appears to be no limit on the number of reappointments, but the statute is silent on this. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term;

(d) *Asian Development* Bank. The members of the Tribunal shall be appointed for a period of three years; they may be reappointed by the Board of Directors, upon the recommendation of the President, for a maximum of two further terms of three years each. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of the predecessor's term.

Dismissal of judges

70. The Redesign Panel proposes that judges of the Dispute Tribunal and of Appeals Tribunal be removable only by the General Assembly, at the request of the Secretary-General, and only on grounds of proven misconduct or incapacity. The Secretary-General supports this proposal. In the comparator Tribunals, two provide explicitly for dismissal. At IMF, the Managing Director shall terminate the appointment of a member who, in the unanimous opinion of the other members, is unsuited for further service. At ADB, a member of the Tribunal may be removed from office by a majority decision of the Board of Directors upon the unanimous recommendation of the other members to the effect that he or she is unsuited for further service.

Number of judges for the United Nations Dispute Tribunal

71. The Redesign Panel recommended that a single judge normally decide cases at the Dispute Tribunal level (A/61/205, para. 93). In his note (A/61/758), the Secretary-General indicated that in order to better reflect the multicultural nature of the Organization, representation of more than one legal system would be required. He recommended that cases in the Dispute Tribunal be reviewed by a panel of three judges. However, the Advisory Committee on Administrative and Budgetary Questions was not convinced that more than one judge was required with respect to decisions made in the Dispute Tribunal (A/61/815, para. 44).

72. While in a national setting cases may be reviewed in the first instance by a single judge, depending on the jurisdiction, questions of disparate legal traditions and diverse cultural and linguistic backgrounds do not arise in national courts. Comparable international tribunals — the ILO Administrative Tribunal, the World Bank Administrative Tribunal and the European Union Civil Service Tribunal — have seven judges each, while the IMF and the ADB Tribunals have five judges each. The European Union Civil Service Tribunal — also a first-instance administrative tribunal — sits in chambers of three judges. The ILO, World Bank and IMF Tribunals normally consider cases in panels of three judges, although fewer or more judges may consider a case on an exceptional basis.

73. The Secretary-General further considers that having three panels in the Dispute Tribunal is necessary to ensure easy access to the justice system for staff members around the world. He recalls that one of the fundamental concerns of the Redesign Panel was to decentralize the system of justice and provide easier access for staff outside Headquarters. Accordingly, he has proposed establishing panels in New York, Geneva and Nairobi that, on the basis of projected regional caseloads, could serve United Nations staff located in the respective regions. As indicated in his note (A/61/758), the Secretary-General does not see the need for the judges proposed by the Panel for Bangkok and Santiago. Instead, travel of the panels for sessions in Latin America and Asia could be undertaken, as required by the regional caseload.

74. In terms of ensuring the efficiency of the proposed Dispute Tribunal panels, certain judgements (e.g., on procedure, receivability, interim orders) could be made by a single judge. However, all decisions on substance would require review by a full panel of three judges. Established rules of procedure would, inter alia, reflect this division of labour.

B. Management evaluation of contested decisions

75. "Administrative review" is a feature of the current system that was intended to provide the Administration with a final opportunity to review a contested decision prior to the complaint proceeding to the Joint Appeals Board for consideration. The Redesign Panel, in its analysis of the existing justice system, was very critical of the administrative review step on the grounds that few staff members actually received a reasoned response and that it contributed to delays in the handling of cases.

76. The Secretary-General acknowledged that this function had been underresourced in the Secretariat, and therefore the intended impact had not been as significant as would have been the case otherwise. The experience of the funds and programmes has shown that where there is adequate capacity to conduct administrative reviews, the rates of resolving disputes at a relatively early stage through this mechanism are much higher. For example, at UNDP, in the four-year period from 2003 to 2006, more than 75 per cent of the appeals received were settled or resolved following the administrative review conducted at UNDP headquarters, in its Office of Legal and Procurement Support, and did not go to further litigation.

77. Following extensive consultations with staff and management, the Secretary-General, in his note (A/61/758), emphasized the continued need for an evaluation by the administration of contested decisions, prior to cases proceeding to litigation. This "management evaluation" would be a critical, final step in determining whether a mistake had been made or an irregular action taken, before a case proceeded to the first level of judicial review (the Dispute Tribunal). It would give management an opportunity to correct itself, where necessary, and to hold decision makers accountable in cases where an improper decision had been taken. This step is consistent with equivalent processes noted in a number of national jurisdictions.

78. Paragraph 30 of the note by the Secretary-General (A/61/758) lays out the mechanisms for ensuring that the management evaluation is more effective than the administrative review step that it will replace. These include:

(a) Stipulating a 45-day limit for the provision of a written reasoned response;

(b) Creating a well-resourced dedicated unit responsible for this function, reporting directly to the Under-Secretary-General for Management;

(c) Allowing the Under-Secretary-General for Management to change or modify incorrect or non-compliant decisions or to identify alternative solutions for the resolution of a dispute;

(d) Identifying instances in which suspensions of action could be granted, pending completion of the evaluation.

79. The Secretary-General further reinforces this proposal with measures to improve managerial accountability, including the reflection of managers' compliance with their obligation to respond to requests for comments in a timely fashion in their performance appraisals and in departmental human resources action plans, and including, as appropriate, in the funds and programmes. This measure is consistent with the request of the General Assembly in paragraph 13 of resolution 59/283, in which the Assembly stressed the "need to link the ability of managers to respond in the course of a proceeding with their own individual performance appraisal". Related targets and indicators will also be included in the head of department's compact with the Secretary-General. In cases where a contested decision is changed or modified by the Under-Secretary-General for Management, the delegated decision-making authority is effectively withdrawn in the context of that specific decision. Where the Under-Secretary-General determines that a manager has abused his or her delegated authority, such authority may be withdrawn. In addition, the Secretary-General has expressed his desire to strengthen the role of his Management Performance Board in ensuring that managers discharge their managerial responsibilities properly.

80. Both the Advisory Committee on Administrative and Budgetary Questions and the Member States have stressed the importance of exhausting all administrative remedies before embarking on formal proceedings. In the points of agreement reached by the Sixth Committee, referred to in General Assembly decision 61/511 B, Member States agreed that management should be given the opportunity to review the contested decision within a specified short time. In paragraph 25 of its resolution 61/261, the Assembly further acknowledged the need for a management evaluation process that is "efficient, effective and impartial". It endorsed the Secretary-General's proposals to strengthen managerial accountability in connection with this new function, and it also asked that the Secretary-General address the concerns of the Advisory Committee on Administrative and Budgetary Questions laid out in paragraphs 32 to 40 of its report (A/61/815). These issues are explained in the paragraphs below.

81. The disciplinary process and the authority to conduct that process and to impose disciplinary sanctions were discussed by the Staff-Management Coordination Committee intersessional working group, whose recommendations were subsequently considered by the Committee at its twenty-eighth session. The Committee agreed that the authority to impose the most severe disciplinary sanctions would continue to be exercised by the Under-Secretary-General for Management. No management evaluation would be necessary or desirable in such instances. The contested disciplinary decisions taken by the Under-Secretary-General would go directly to the Dispute Tribunal for judicial review.

82. In addition, those administrative decisions taken pursuant to the advice given by technical boards, such as the Advisory Board on Compensation Claims or the Medical Boards, would also not be subject to management evaluation. In all other instances, therefore, the completion of a management evaluation would be a prerequisite before a matter could proceed to the formal system for judicial review.

Differences between administrative review and management evaluation

83. The Advisory Committee on Administrative and Budgetary Questions expressed concern that:

> the proposed management evaluation has similarities with the administrative review process with respect to the purpose of the evaluation [and] what is expected to be accomplished ... It is important that concerns about the similarities between [the process of administrative review] and the proposal of the Secretary-General for a management evaluation be addressed.[17]

84. In fact, the administrative review process and the management evaluation function are different in a number of essential aspects. Efforts have been undertaken to ensure that the problems experienced by the current system of administrative review are not replicated under the new system. This was discussed extensively during the special session of the Staff-Management Coordination Committee. The proposed new management evaluation tackles the problems of the existing review in the following ways:

(a) *Unnecessary delays*. There is an express commitment to provide all staff members with a written response within 45 days (as opposed to 60 days in the existing system for staff stationed outside New York), with explicit provisions for expediting cases in specified circumstances;

(b) *Insufficient resourcing for the function*. The new unit will be properly resourced to fulfil its mandated functions. It is envisaged that the unit would be headed at the D-1 level and have five Professional and three General Service staff at Headquarters. In addition, a capacity would be made available in each major office away from Headquarters and the large peacekeeping missions, through the Department of Field Support, to ensure that information concerning contested administrative decisions taken by them is properly collated and provided in a timely fashion. Assuming the resources are forthcoming, the Secretary-General will commit to provide a written, reasoned response in all cases;

(c) *Lack of accountability for specific decisions*. The management evaluation is expressly linked to individual managerial accountability through a series of specific measures described in paragraph 31 of the note by the Secretary-General (A/61/758);

(d) *Perception of bias*. The evaluation will no longer be conducted by the Administrative Law Unit of the Office of Human Resources Management, which was underresourced for the performance of this function, but by a separate unit in the front office of the Department of Management. The rationale for the placement of this unit is addressed below.

Placement of the management evaluation function

85. The Redesign Panel expressed the view that the current administrative review process creates a conflict of interest because the Administrative Law Unit, where the review is currently conducted, is also responsible for defending the administrative decision if a case proceeds to the Joint Appeals Board. It is worth noting that in the funds and programmes, where administrative reviews are systematically conducted with a high degree of success, the same office that reviews the challenged decision also prepares the defence of the respondent, if the appeal is later litigated. However, recognizing that even the perception of a conflict of interest, whether well founded or not, undermines confidence in the justice system, the Secretary-General has

[17] A/61/815, para. 35.

addressed this concern by recommending that the management evaluation be conducted by a unit other than the Administrative Law Unit.

86. The Advisory Committee on Administrative and Budgetary Questions has indicated that, in its view, the placement of the management evaluation unit in the Department of Management presents the risk of a perceived conflict of interest and that responsibility for this function should not lie with those whose policies or decisions are, in fact, under scrutiny. This view appears to be based on the assumption that the main objective of the evaluation is to provide an independent, third-party review of whether a decision complies with organizational rules, policies and procedures. In fact, this would be the express purpose of the subsequent judicial review that the Dispute Tribunal would undertake. By contrast, the main objective of the management evaluation is for the Administration to confirm that the contested decision reflects the correct application of the appropriate personnel and financial rules, policies and procedures, as they have been developed and applied by the Organization. It is therefore necessary and appropriate for the Department of Management, which has the responsibility for formulating policies and procedures and providing strategic guidance in human resources and finance (see ST/SGB/2005/8), to conduct the function. No other Secretariat office has the requisite background or capacity to evaluate the consistency of organizational rules, policies and procedures and their application in different locations across the Organization.

87. In addition, the exercise of authority delegated in respect of financial management and human resources management is itself under the authority of the Controller and the Assistant Secretary-General for Human Resources Management, both of whom senior staff within the Department of Management and both of whom report directly to the Under-Secretary-General for Management. Proper monitoring of those delegations is already a responsibility that resides with those two officials. It is therefore wholly appropriate that a unit responsible for the evaluation of contested decisions would report directly to the Under-Secretary-General for Management so that he or she is in a position to make a comprehensive assessment of the manner in which authority delegated by the Department of Management is being exercised. This is an essential control to ensure that those with the ultimate responsibility (in this case the Under-Secretary-General) have the tools to monitor the use of decision-making authority lower down in the chain of command.

88. Further, the Department of Management has a unique, cross-cutting mandate and a responsibility for monitoring adherence to indicators in the departmental human resources action plans and compliance with oversight recommendations. The Under-Secretary-General for Management therefore already has a responsibility for identifying possible management trends and taking corrective action where problems may have occurred.

89. Finally, it is important to note that if an incorrect administrative decision has been taken, normally it is the Department of Management that has the authority to ensure that the decision will be changed or that an appropriate remedy will be provided. Again, this authority is inherent in the unique responsibility of the Department of Management for providing strategic guidance in matters relating to human resources and finance. It is on this basis that the Under-Secretary-General for Management is now committed to correcting inappropriate or improper decisions or providing appropriate remedies, as well as contemplating the withdrawal of delegated authority, if the circumstances merit.

Proposed time frame for the management evaluation function

90. The deadlines envisaged in the current procedures for administrative review allow 30 days for the provision of a substantive reply in the case of staff members in New York or 60 days in the case of staff members stationed outside New York. During the discussions in the Staff-Management Coordination Committee, staff expressed concern that the 60-day period was too long, particularly in a case where the administrative decision may be relatively routine in nature (e.g., a decision involving the payment of an entitlement). At the same time, it was also agreed that deadlines should be achievable, with account being taken of the time required to obtain responses from offices in remote duty stations and to review relevant documentation thoroughly in order to provide a reasoned response.

91. As a compromise, and in the interest of shortening the time frame, it was agreed that a management evaluation would be conducted within 45 days in all cases. The deadline for cases involving staff members in New York was increased from 30 days to 45 days, thus establishing the same time limits for staff at all duty stations to ensure equality of treatment for all staff worldwide.

92. Forty-five days represents the maximum time limit for staff members to get a reasoned response from management. Should the management evaluation be completed earlier, staff will be informed upon its completion. The Secretariat considers that any further shortening of the deadline would not be feasible, particularly in cases involving fact-finding in offices away from Headquarters, and cautions against establishing unrealistic expectations that it would be unable to fulfil. It is expected that legal offices in offices away from Headquarters and major peacekeeping missions will help facilitate the provision of complete case files for review.

93. Moreover, the Staff-Management Coordination Committee agreed that the management evaluation function would be reviewed one year after the new system of administration of justice was fully implemented. The issue of deadlines can be revisited at that time, but first it is important to establish management evaluation deadlines that are feasible, in order to build staff confidence in the value of the procedure.

Safeguards to prevent undue pressure on staff availing themselves of the new system

94. The Advisory Committee on Administrative and Budgetary Questions indicated in paragraph 37 of its report (A/61/815) that it would be essential to promote full confidence in the new system by assuring its independence and impartiality. The Advisory Committee felt that safeguards should be provided to limit the pressures staff might come under in availing themselves of the new system. Staff rule 101.2 (j), which would need to be amended with the advent of the new system, currently provides a high degree of protection, as follows:

> Staff members shall not unduly interfere or seek to interfere in the proper establishment or the functioning of the joint bodies established under articles X and XI of the Staff Regulations to advise the Secretary-General on disciplinary matters or on appeals by staff members against an administrative decision. Similarly, staff members shall not unduly influence or attempt to influence any individual participating in the process in the exercise of his or her functions. Nor shall any staff member threaten, retaliate or attempt to retaliate against

such individuals or against staff members exercising their right to appeal against administrative decisions.

95. The adequacy of safeguards can also be reviewed during the above-mentioned review of the management evaluation function, one year after operation.

C. Disciplinary proceedings

96. A key element in developing and designing the new justice system will be the expeditious, effective handling of disciplinary cases. The Redesign Panel was particularly critical of the existing processes and procedures, indicating that the handling of disciplinary cases was overcentralized and led to protracted delays in the disposition of cases. The Panel recommended that a new formal system of internal justice have jurisdiction over disciplinary matters (A/61/205, para. 77 (b)).

97. The existing disciplinary processes and procedures are outlined in chapter X of the Staff Rules as well as, in the case of the Secretariat, a related administrative instruction of 3 August 1991 (ST/AI/371). It is important to note that the administrative instruction predates the creation of both the Office of Internal Oversight Services and the Department of Safety and Security. Annex I below describes the existing process and the offices or individuals responsible for taking action at each stage of the process.

98. One of the Panel's principal recommendations in this regard was for decision-making authority for the full range of disciplinary measures to be delegated to heads of offices away from Headquarters and heads of peacekeeping and political missions. It also stressed the need for a clear investigation framework. In view of the complexity of these and other disciplinary issues, the Secretary-General agreed to the recommendation made at the twenty-seventh session of the Staff-Management Coordination Committee that an intersessional working group examine these issues. The recommendations of that working group were considered by the Committee at its twenty-eighth session, and the outcome of that process is summarized below, in response to the request contained in paragraph 32 (f) of General Assembly resolution 61/261.

99. In order to present the new disciplinary process as clearly as possible, the explanation of its various components will correspond to its three successive phases, namely, (a) the pre-disciplinary phase, (b) the disciplinary phase (and the proposed delegation of authority) and (c) the recourse mechanism. Once the new process is adopted in principle, appropriate changes will be made in chapters X and XI of the Staff Rules, which govern disciplinary measures and procedures and the appeal process. A new administrative issuance will also be published to provide additional guidance. Annex II provides a description of the proposed new process.

100. The working group and the Staff-Management Coordination Committee itself were guided by the overall requirement spelled out by the General Assembly for the new justice system to be, inter alia, "professionalized, adequately resourced and decentralized ..., consistent with the relevant rules of international law and the principles of the rule of law and due process" (resolution 261, para. 4).

Pre-disciplinary phase

Receipt of allegations or complaints

101. All United Nations staff are obliged to report possible misconduct that might come to their attention and have been informed of this obligation.[18] Once the matter comes to the attention of the Office of Internal Oversight Services or a head of department or office, a determination is made as to whether there are sufficient grounds on which to launch an investigation. Paragraph 12 of General Assembly resolution 59/287 envisages a mechanism whereby programme managers will have the duty to report to the Office of Internal Oversight Services all allegations of misconduct that come to their attention; peacekeeping operations do so as a matter of course. Reinforcement of this mechanism is in progress.

102. In order to assist staff and managers in fulfilling their obligations, it is intended that the new administrative issuance would describe the various sources and mechanisms for reporting allegations of wrongdoing, define the responsible officials and/or offices and contain the criteria for assessing whether a full-fledged investigation is warranted.

Conduct of investigations

103. The Redesign Panel recognized the need for a "clear framework of cooperation and coordination between the Office of Internal Oversight Services and the United Nations internal justice system" (A/61/205, para. 162). To that effect, bearing in mind the Office's operational independence, as laid down in resolution 48/218 B of 29 July 1994, the Secretary-General has requested the relevant departments to collaborate in developing an integrated system of common processes and unified rules of procedure and has requested the Office to update its Investigation Manual as necessary, in consultation with appropriate departments. The Department of Management will ensure that staff representatives designated by the Staff-Management Coordination Committee contact group on the administration of justice are properly consulted.

104. Both staff and management agreed on the importance of respecting the due process rights of staff during an investigation. This is especially important in view of a staff member's duty to cooperate with investigations, as set out in staff regulation 1.2 (r). Staff representatives have a number of additional proposals in this regard, which will be considered for the finalization of the Office of Internal Oversight Services Investigation Manual.

105. In view of the large number of investigations that are not conducted by the Office of Internal Oversight Services (i.e., simple investigations or investigations involving lower risk to the Organization), the Secretary-General has also agreed, in principle, with the recommendation of the Staff-Management Coordination Committee for increased investigative capacity within the Department of Safety and Security. As part of developing an integrated system of investigative processes, standard operating procedures will also be developed for investigations and fact-finding that are conducted under the authority of programme managers, and specialized training will be provided for all those entrusted with carrying out such investigations.

[18] See ST/IC/2005/19 and ST/SGB/2005/21, sect. 1.1.

106. With respect to the Boards of Inquiry currently constituted in peacekeeping missions, it should be noted that they do not have the mandate to conduct disciplinary investigations in respect of United Nations staff members. The Boards are mostly used to establish facts pertaining to the damage or loss of United Nations property or injury to personnel or third parties.

107. The Redesign Panel recommended establishing standing Boards of Inquiry in peacekeeping missions (A/61/205, para. 163). Closer analysis and consideration indicated that the caseload may not justify the existence of a standing Board in every peacekeeping location, not least because the composition of the Board would vary depending on whether a complaint involved staff members, civilian police officers and military observers, or military members of a national contingent. On that basis, the Secretary-General has accepted the recommendation of the Staff-Management Coordination Committee that peacekeeping missions designate a staff member to preside over the Boards of Inquiry on a standing, full-time basis, but that the other members be assigned only on an as-needed basis.

108. The Panel also made reference to the conduct and discipline teams recently created in peacekeeping missions and the need for additional coordination between the Office of Internal Oversight Services and those teams in dealing with cases of alleged sexual exploitation and abuse in the field. At the operational level, those teams record and receive allegations but do not have investigative responsibilities. Cooperative working arrangements with the Office of Internal Oversight Services are in place to ensure proper categorization of allegations and effective, efficient investigative processes. These are under continuous review, so as to identify efficiencies and ways to accelerate investigations.

Administrative leave

109. At its twenty-eighth session, the Staff-Management Coordination Committee acknowledged that the circumstances of a particular case may make it necessary for the subjects of investigations or disciplinary proceedings to be removed from United Nations premises for a limited period of time to allow for completion of the investigation or finalization of the disciplinary process. The Committee agreed on specific amendments to existing provisions, along with a proposed delegation of authority to heads of offices away from Headquarters and heads of mission to put a staff member on administrative leave during an investigation for up to a maximum of 15 days, after which an extension would be subject to approval by the Office of Human Resources Management.

Evaluation of the investigation

110. The final stage of the pre-disciplinary phase involves an evaluation of the investigation report and accompanying evidence in order to determine whether to initiate disciplinary proceedings against a staff member. This will be conducted on the basis of legal advice, as detailed below. The results of investigations conducted under the authority of programme managers in the Secretariat will be reported to the Office of Internal Oversight Services, in accordance with General Assembly resolution 59/287, paragraph 11.

Disciplinary phase

111. The entire disciplinary process within the current system of justice is centralized in the Office of Human Resources Management of the Department of Management at Headquarters and in comparable or corresponding departments or offices at United Nations funds and programmes that have delegated authority in disciplinary matters. As noted above, the Redesign Panel recommended that the new system provide for quicker resolution of disciplinary cases and greater protection of staff. In the spirit of the Redesign Panel's recommendations, the Secretary-General has agreed to delegate the disciplinary process to heads of offices away from Headquarters and heads of peacekeeping and special political missions, as described below.

112. As far as the United Nations funds and programmes are concerned, because of their highly dispersed nature, the structures of their field offices and the consequent difficulties in achieving consistency of decision-making, both the disciplinary process and the decision to impose disciplinary measures will remain centralized.

The disciplinary process

113. The disciplinary process begins when a decision has been taken to charge a member with misconduct on the basis of an investigation report. It includes notifying the staff member in writing of the charges and his or her due process rights, including the right to counsel and the right to respond to the charges. The staff member is provided with a copy of the evidence forming the basis of the charges, including the investigation report.

114. It was agreed at the twenty-eighth session of the Staff-Management Coordination Committee that the disciplinary process could be delegated only when the necessary capacity was in place in offices away from Headquarters and peacekeeping and special missions, including: adequate legal capacity in the form of legal officers outposted from the Department of Management and staff legal assistance officers at the office or regional level; access to the Office of the Ombudsman at the office or regional level; and training for all staff involved in the disciplinary process. This will ensure that the decisions taken by the heads of offices away from Headquarters or of missions are in conformity with the relevant rules and regulations, and that the due process rights of the staff members concerned are respected.

115. To that effect, the Staff-Management Coordination Committee agreed, and the Secretary-General proposes, that legal officers would be outposted from the Office of Human Resources Management to provide advice to the head of office or of mission. If the advice of the legal officer were not accepted by the head of office, the matter would be referred to the Office of Human Resources Management for advice. At duty stations where the caseload would not justify a full-time legal officer, the functions could be performed at the regional level and/or could be combined with those of the individuals participating in the management evaluation process (see paras. 157-158 below).

Decisions to impose disciplinary measures at the conclusion of the disciplinary process

116. The Redesign Panel's recommendation that heads of offices away from Headquarters and heads of mission be authorized to impose the full range of disciplinary measures raised a number of concerns for both management and staff. Most important is the risk that measures having a significant impact on the careers and professional reputations of individual staff members might be applied unfairly or inconsistently between different duty stations. For this reason, it was decided at the twenty-eighth session of the Staff-Management Coordination Committee that only the authority to impose minor sanctions — censures and/or fines of an appropriate level — would be delegated once the necessary capacity was in place. The authority to impose more severe sanctions will remain with the Under-Secretary-General for Management.

Proposed safeguards

117. The Redesign Panel recommended the establishment of standing panels on disciplinary matters for all offices away from Headquarters and field missions to advise, review and recommend disciplinary action to the head of office or mission (A/61/205, para. 27). However, the Secretary-General believes that such panels would replicate and multiply the occurrence of the current problems with the existing Joint Disciplinary Committees (lack of professional capacity and independence, reliance on volunteers, etc.).

118. In order to address the legitimate concern that the rights of staff members should be fully respected during the course of the disciplinary process and when a disciplinary sanction is imposed, the outposted legal officer will ensure that:

(a) The investigation is complete and sufficient to proceed;

(b) The charges are properly formulated;

(c) The related report and evidence have been sent to the staff member with a request for comments;

(d) Subsequently, those comments are thoroughly assessed.

On this basis, the legal officer will advise the head of office away from Headquarters or head of mission as to whether the charges should be dropped or would warrant the imposition of a suitable disciplinary measure.

119. At its twenty-eighth session, the Staff-Management Coordination Committee agreed on the need for further safeguards to ensure that the delegated authority is properly undertaken. First, the legal officer advising the head of office away from Headquarters or head of mission must consult with the legal counsel for the staff member before any recommendation for disciplinary action is made to the head of office or head of mission. Second, any such measure subsequently contested by the staff member would be subject to a management evaluation conducted by the Department of Management at Headquarters. Third, intensive training needs to be provided to all staff involved at the different stages of the disciplinary process.

120. The Secretary-General has also endorsed a number of steps, agreed at the twenty-eighth session of the Staff-Management Coordination Committee, prior to the delegation of authority to heads of field missions. These include the completion of a comprehensive monitoring exercise to be undertaken prior to the January 2009

implementation of the new justice system. On the basis of that exercise, guidelines for the imposition of fines and censures, including guidance on the level of fine or censure, would be developed and provided to all heads of mission prior to the delegation.

Recourse

121. Under the new system, prior to formal judicial recourse, a management evaluation will be conducted of decisions taken by heads of offices away from Headquarters and heads of mission to impose a disciplinary measure of fine or censure when those decisions are contested. Subsequently, the decision could be challenged before the Dispute Tribunal and then appealed to the Appeals Tribunal.

122. The Redesign Panel had recommended that matters before the Dispute Tribunal normally be determined by a sitting judge alone. Paragraph 71 of the present report explains the justification for the Secretary-General's own proposal for the Dispute Tribunal panels of three judges. This also calls into question the Redesign Panel's additional proposal for assessors to sit with the judge in disciplinary cases, advising the judge on the appropriate course of action. The assessors would not now be needed, given the presence of three individual judges. The proposal for assessors again raises concerns about the legitimacy of peer review.

123. Finally, the Redesign Panel asserted that the practice of giving staff members "little or no opportunity to present their case and answer questions in person ... is only a few degrees removed from trials in absentia" (A/61/205, para. 24). Accordingly, the Panel stated that the Organization must in all cases make budgetary provision for a staff member accused of misconduct to appear before disciplinary proceedings in person, even when he or she has the services of counsel.

124. Having reviewed the Redesign Panel's recommendation, however, the Secretary-General considers that the requirement to appear in person before the Dispute Tribunal and the Appeals Tribunal could be more practically fulfilled by enabling the person to appear by videoconference from his or her physical location. Where the Dispute Tribunal and Appeals Tribunal judges have determined, on a case-by-case basis, that the physical presence of the person concerned is necessary for their consideration of the case, then the Organization would bear the cost of travel and related expenses.

D. Draft elements of the United Nations Dispute Tribunal and United Nations Appeals Tribunal statutes

125. In its decision 61/511 B, the General Assembly requested the Secretary-General to provide more details on draft elements of a statute or statutes of the first instance and the appellate instance, taking into account the points of agreement of the Sixth Committee.

126. In response to that request, proposals for the draft elements of the statutes of the United Nations Dispute Tribunal and of the United Nations Appeals Tribunal are submitted in annexes III and IV to the present report. The draft elements reflect the Secretary-General's proposals for the Dispute Tribunal and the Appeals Tribunal, as set out in his note (A/61/758). They also take into consideration the points of agreement of the Sixth Committee, as set out in appendix I to the letter from the

Vice-Chairman of the Sixth Committee (A/C.5/61/21), General Assembly resolution 61/261, the report of the Advisory Committee on Administrative and Budgetary Questions (A/61/815) and the report of the Staff-Management Coordination Committee at its twenty-eighth session, as approved by the Secretary-General.

127. The Secretary-General proposes that the statute of the Appeals Tribunal consist of two parts. The first part would consist of the United Nations Administrative Tribunal's current statute, subject to any necessary revisions to be made by the General Assembly, and would apply to the Appeals Tribunal acting as an administrative tribunal. The second part of the statute would be developed on the basis of the proposed draft elements set out in annex IV below, and would apply to the Appeals Tribunal acting in its appellate capacity. The Secretary-General considers that having two separate parts in a single statute would avoid confusion as to which provisions would apply to the Appeals Tribunal when it acts in its appellate capacity rather than as an administrative tribunal, and vice versa.

128. The proposed draft elements prepared by the Secretary-General constitute a first step towards the preparation of the statutes of the Dispute Tribunal and the Appeals Tribunal, and they are submitted to the General Assembly for its review and endorsement. The final elements, when endorsed by the Assembly, would serve as the basis for preparing the draft texts of the statutes. The draft texts would be submitted to the Assembly for review and adoption.

E. Proposals for United Nations Dispute Tribunal and United Nations Appeals Tribunal Registries and their interim rules

129. In paragraph 32 (h) of its resolution 61/261, the General Assembly requested the Secretary-General to report on "proposals for registries for the United Nations dispute tribunal and its interim rules". The Secretary-General sets forth below his proposals and comments.

130. In addition to case management, it is envisaged that the registries would support the Tribunals by reviewing case files, verifying the facts of each case and conducting legal research. In this way, they would perform work similar to that of a judge's chamber. It is therefore envisaged that the registrars and their staff would be extensively involved in cases filed before the Dispute Tribunal and the Appeals Tribunal, although decisions of the Tribunals would, of course, be made by the judges.

131. The Redesign Panel proposed that the same Registry would support both the Dispute Tribunal and the Appeals Tribunal (A/61/205, paras. 91 and 95 and annex VI). The Secretary-General proposed that Dispute Tribunal panels be established in New York, Geneva and Nairobi, that each panel be supported by a registry and that the workload of each Dispute Tribunal panel be monitored by a principal registrar in the Office of Administration of Justice (A/61/758, para. 20 and annex II).

132. Consistent with the Redesign Panel proposals, overall supervision and coordination of the Registries would be the responsibility of the head of the Office of Administration of Justice. The registries would be responsible for the management of all cases filed therein. The principal registrar, registrars and other Registry staff would be appointed as staff members, and, in addition, the principal registrar and registrars would be appointed only after consultation with the President of the Appeals Tribunal and the appropriate Dispute Tribunal judge.

133. Consequently, if one Registry were to support both Tribunals in the same cases, a potential conflict of interest — both real and perceived — might be created and the impartiality of the Registry would be cast in doubt. The appearance of a conflict of interest could not be avoided even if, for example, a decision of the Dispute Tribunal were to be rendered by the panel in Geneva or Nairobi and appealed to the Appeals Tribunal, which would be located in New York, since there would still be a single Registry overall, headed by the principal registrar, which would be providing substantive support to both Tribunals in the same case. In view of this, the Secretary-General's proposal is to establish separate Registries for the two Tribunals.

Interim rules for the United Nations Dispute Tribunal and the United Nations Appeals Tribunal

134. The Redesign Panel proposed that:

> Early action should be taken to establish registries and to equip them with the requisite facilities. Although the executive director will be able to undertake much of this work, it is essential that there be someone with extensive experience in court administration to assist in the establishment of the registries and the training of the registrars and other registry staff. Additionally, it will be necessary to prepare forms and interim rules for the Dispute Tribunal and amendments to United Nations Administrative Tribunal rules to cover its new appellate jurisdiction.[19]

135. The two Tribunals cannot operate without rules adopted through established procedure, nor can appeals to the Dispute Tribunal or the Appeals Tribunal be filed by applicants, unless they are informed of the statutes and the rules of the Tribunals. However, the adoption of the rules of the Tribunals, as well as the related work (the preparation, review and revision of the draft rules) should all be undertaken by the judges of the respective Tribunals, rather than by the General Assembly.

136. The reference to "interim rules" by the Redesign Panel was perhaps intended to mean provisional or temporary rules, pending the adoption of permanent rules by the judges of the respective Tribunals. However, such rules would still have to be adopted by the Tribunals, as no other body should have the necessary adoption authority. Therefore, the Secretary-General considers that each Tribunal should be allowed a period of time, possibly three months, between the election of judges and the actual commencement of operations. This would allow various organizational matters to be addressed, including the adoption of rules by each Tribunal. Such a defined period would also eliminate the need for any "interim rules" and instead allow the drafting, review and adoption of actual, permanent rules.

137. In response to the General Assembly's request in its resolution 61/261, paragraph 32 (h), the Secretary-General has prepared proposed elements of the draft rules of the Dispute Tribunal and the Appeals Tribunal (annexes V and VI below) for the information of and comments by the General Assembly. Those draft elements, and any comments of the General Assembly, could be considered by the judges of the respective Tribunals when they undertake to prepare and adopt their own rules.

[19] A/61/205, para. 143.

138. The Secretary-General would recommend that rules of the United Nations Administrative Tribunal be used as the basis for the rules of the new Tribunals. They will, however, need to be adapted to the new system of internal justice, as well as to modern practice. The existing United Nations Administrative Tribunal rules have become somewhat outdated over time, as well as being cumbersome and, at times, confusing. It is also envisaged that much of the documentation of the Dispute Tribunal and the Appeals Tribunal will be processed in electronic form. In particular, articles 7 to 10 of the current United Nations Administrative Tribunal statute will have to be substantially revised.

Registries for the United Nations Dispute Tribunal

139. The Registry of the Dispute Tribunal would be responsible for:

(a) Providing substantive, technical and administrative support to the judges of the Tribunal in the adjudication of cases, including monitoring and enforcing compliance with the rules of procedure of the Tribunal;

(b) Maintaining the Dispute Tribunal register (electronic and online);

(c) Publishing and disseminating the decisions (judgements) rendered by the Dispute Tribunal in the required official languages through the agreed media (Internet and Intranet);

(d) Maintaining the Dispute Tribunal case law and jurisprudence databank (electronic and online), as well as its paper and electronic filing and monitoring system;

(e) Reporting on the work of the Dispute Tribunal through the head of the Office of Administration of Justice to the General Assembly, as may be mandated;

(f) Managing and administering the human, financial and other resources allocated to the Dispute Tribunal.

Registry of the United Nations Appeals Tribunal

140. Specific proposals for the Registry of the Appeals Tribunal are set out below, focusing on projected caseload, personnel and budgetary requirements. It is envisaged that the functions of the Registry of the Appeals Tribunal will continue to be essentially similar to the functions of the secretariat of the United Nations Administrative Tribunal.

141. As part of a review of the working practices of other international administrative tribunals, mandated by the General Assembly in operative paragraph 46 of its resolution 59/283, the United Nations Administrative Tribunal secretariat prepared a questionnaire that was distributed to a number of different administrative tribunals. The information thus derived continues to be consolidated. It will be a useful basis for the Registry of the Appeals Tribunal in developing a best-practices approach to case management.

142. It is difficult to project with certainty the number of cases the Appeals Tribunal will receive. As a comparison, the ILO Administrative Tribunal receives, on average, 120 cases per year, approximately double the current United Nations Administrative Tribunal workload. Conceivably, the binding nature of decisions at the Dispute Tribunal level and the restricted grounds for the filing of appeals might result in a decrease in the number of cases filed with the Appeals Tribunal.

However, greater staff confidence in the new system, the inevitable uncertainty over receivability of appeals, which would require decision-making by the Appeals Tribunal in questionable cases, and the fact that the Administration would also have the ability to appeal Dispute Tribunal decisions are likely to counteract any such decrease. Moreover, if the Secretary-General's proposal to extend the scope of the jurisdiction of the internal justice system beyond staff members, for example, to include individual contractors and consultants, is accepted, a significant increase in caseload could be anticipated.

143. Resource requirements for both Registries are submitted for Member States' review in annex VIII below.

F. Arrangements for current members of the United Nations Administrative Tribunal

144. In paragraph 32 (g) of its resolution 61/261, the General Assembly asked the Secretary-General to outline possible arrangements that might be made for the members of the United Nations Administrative Tribunal whose terms of office are affected by the implementation of the new system.

145. Of the seven current Tribunal members, two have terms ending on 31 December 2007 and three have terms ending on 31 December 2008. Given that the members' appointments are made by the General Assembly, it will be for Member States to decide whether any transitional, renewal or extension arrangements are needed, bearing in mind the new appointment and selection criteria proposed for both the Dispute Tribunal and the Appeals Tribunal set out in paragraphs 55 to 68 above, along with the new terms and conditions of their engagement. In addition, the Assembly will need to determine whether to break the term of the additional two Tribunal members whose terms would have concluded at the end of 2009 and 2010, respectively, subsequent to the full implementation of the new justice system (which the Assembly has stipulated should take place in January 2009).

146. One important factor to consider will be the need to clear the considerable backlog of cases pending before the Administrative Tribunal in the quickest, most efficient and most effective manner. In his report (A/61/891), the Secretary-General indicated that, on the basis of patterns experienced in previous years, it was likely that approximately 100 cases would need to be carried forward from the old United Nations Administrative Tribunal to the new Appeals Tribunal (operating as the Administrative Tribunal) as of January 2009. In order to deliver on this ambitious workplan, and not to overload the new system with old cases, it may be advisable to retain the maximum number of existing United Nations Administrative Tribunal members throughout this prescribed transition period. Different options exist in terms of the possible extension and/or reappointment of the current members or the appointment of successor members. Those options will vary depending on the individual member, the expiration of his or her term and his or her willingness to continue in a transitional role.

VI. Transitional measures

147. The Secretary-General endorses the transitional procedures recommended by the Staff-Management Coordination Committee at its twenty-eighth session, which would apply to the formal system of justice during the period leading up to 1 January 2009, the date of commencement of the new system of administration of justice. The Secretary-General emphasizes the need for additional resources to ensure the effective implementation of those transitional procedures with a view to clearing pending cases, as requested by the General Assembly in its resolution 61/261, paragraph 29. He proposes that the Joint Appeals Boards and the Joint Disciplinary Committees or, in the case of separately administered funds and programmes that have delegated authority, the Disciplinary Committees should proceed with all pending matters until 31 December 2008, in accordance with the transitional procedures described below.

Before 1 January 2009

148. The Joint Appeals Boards, Joint Disciplinary Committees and Disciplinary Committees should complete their reports on all pending cases by 30 November 2008. In respect of the Joint Disciplinary Committees and Disciplinary Committees, those reports concern reviews of summary dismissal decisions.[20] Decisions on completed reports will be made before 31 December 2008 by the Secretary-General or, in the case of a separately administered fund or programme having delegated authority, the executive head.

149. The Joint Appeals Boards, Joint Disciplinary Committees and Disciplinary Committees may need to continue their work beyond the 30 November 2008 deadline to ensure timely decisions by the Secretary-General or executive head, in the following two areas:

(a) The Joint Disciplinary Committees and Disciplinary Committees may continue to review and issue reports on disciplinary cases, other than those on reviews of summary dismissal decisions, during December 2008. The Secretary-General or executive head will make a decision by 31 December 2008 on reports completed before that date;

(b) The Joint Appeals Boards may continue to review requests for suspension of action during December 2008. The Secretary-General or executive head will make a decision by 31 December 2008 on reports completed before that date.

After 1 January 2009

150. On 1 January 2009, the United Nations Dispute Tribunal and the United Nations Appeals Tribunal will be established. The Dispute Tribunal will replace the Joint Appeals Boards, the Joint Disciplinary Committees and the Disciplinary Committees.

[20] The Joint Disciplinary Committees and Disciplinary Committees have the authority to provide advice in two types of cases: (a) where the Secretary-General has imposed summary dismissal and the staff member appeals such dismissal and (b) where a disciplinary matter has been referred to the Joint Disciplinary Committee or Disciplinary Committee for advice on the imposition of a disciplinary measure.

151. In cases where a Joint Appeals Board, Joint Disciplinary Committee or Disciplinary Committee has not completed its report by 30 November 2008, the entire case (including the pleadings as filed) will be transferred to the Dispute Tribunal on 1 January 2009. The Dispute Tribunal would direct further pleadings, as necessary. With respect to matters considered by the Joint Appeals Boards, Joint Disciplinary Committees and Disciplinary Committees during December 2008:

(a) Where a Joint Disciplinary Committee or Disciplinary Committee has not issued its report on a disciplinary case before 31 December 2008 in respect of cases referred to it for advice on the imposition of a disciplinary measure, the Secretary-General or executive head will make a decision without reference to a Joint Disciplinary Committee or Disciplinary Committee report. The decision can be appealed to the Dispute Tribunal;

(b) Where a Joint Appeals Board has not issued its report on a request for suspension of action before 31 December 2008, the Dispute Tribunal will review and decide on the request.

152. The United Nations Appeals Tribunal will have a dual role, acting both in an appellate capacity and as an administrative tribunal. In its appellate capacity, the Appeals Tribunal will consider appeals of decisions issued by the Dispute Tribunal. In its capacity as an administrative tribunal, the Appeals Tribunal will consider:

(a) Applications in respect of decisions made before 31 December 2008 by the Secretary-General or executive head on a report of a Joint Appeals Board, Joint Disciplinary Committee or Disciplinary Committee;

(b) Pending applications filed with the current United Nations Administrative Tribunal before 1 January 2009;

(c) Applications in respect of decisions made by the United Nations Joint Staff Pension Board, or by the executive heads of the organizations that are not subject to the jurisdiction of the Dispute Tribunal.

VII. Capacity in peacekeeping missions and special political missions

153. In paragraph 32 (e) of its resolution 61/261, the General Assembly requested the Secretary-General to report on detailed and objective criteria for determining which peacekeeping operations and special political missions should have elements of the system of administration of justice within their post structures. Pursuant to the Assembly's request and on the basis of considerations and criteria set out in paragraph 154 below, it is proposed that the staffing requirements for the system of administration of justice in the field, comprising a total of 21 posts (3 D-1, 6 P-4, 3 P-3, 3 National Officers and 6 national General Service staff), be reflected in the structure of the Office of the Ombudsman, the Office of Staff Legal Assistance and the Department of Management, with the incumbents of the posts assigned to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the United Nations Mission in Liberia (UNMIL), the United Nations Mission in the Sudan (UNMIS) and the United Nations Integrated Mission in Timor-Leste (UNMIT) and reporting directly back to the heads of their offices at United Nations Headquarters. A summary of the post requirements for peacekeeping and special political missions and the proposed locations, based on a regionalization

concept, are presented in annex VII to the present report, with the information on staffing requirements in respect of the outposted personnel in support of the implementation of the new system of administration of justice provided in paragraphs 155 to 158 and further addressed in section VIII below.

154. The proposals are based on the following considerations and criteria. Firstly, the number of civilian staff in a peacekeeping operation is the primary criterion for determining whether elements of the new system should be established in the mission, as there is a likely correlation between the number of staff and the number of potential disputes. Recent caseload from the largest peacekeeping operation, MONUC, demonstrates this point. From 2005 to 2007, there were over 20 appeals and requests for administrative review and almost 70 disciplinary cases from that Mission alone.[21] Secondly, the close proximity of a number of peacekeeping missions in geographically contiguous areas makes it possible to consider a regionalization of some elements of the administration of justice for them. Thirdly, for missions whose size and caseload would not otherwise justify the assignment of full-time staff, provision would be made for them to be served directly by the headquarters offices closest to the region.

Assignment of representatives from the Office of the United Nations Ombudsman

155. On the basis of the criteria listed above, and as agreed by the Staff-Management Coordination Committee at its special session in Nairobi, staff of the Office of the Ombudsman would be outposted to the three largest missions (MONUC, UNMIL and UNMIS). The heads of the offices thus created would be at the D-1 level and would be supported by one P-4 and one General Service staff member. Those offices will carry out the same functions and will have the same level of responsibility as their counterparts at Headquarters and in the regional offices. It is therefore appropriate that the post level of the head of the office be comparable. A careful review of the anticipated needs indicates that the P-4 position will be required in each of the large missions to cover their regional responsibilities and other specific needs, such as the broader linguistic requirements of the region. All other peacekeeping or special political missions, excluding any that may come under the purview of the outposted offices in MONUC, UNMIL and UNMIS, will need to have continued access to the Ombudsman at Headquarters or be directed to the heads of branch that would be available at the regional level in Addis Ababa, Bangkok, Beirut, Dakar, Geneva, Nairobi, Santiago and Vienna.

Mission-based staff legal assistance

156. A similar rationale is proposed with respect to the outposting of staff legal assistance officers from the Office of Staff Legal Assistance at Headquarters to large missions. For small and medium-sized missions and special political missions, support (when and as required) should be provided by Headquarters. One P-3, one General Service staff member and one National Officer would therefore be required in the three largest missions (MONUC, UNMIL and UNMIS), and would also give them some capacity to undertake services for United Nations staff in the broader region. As legal assistance will also need to be provided to locally recruited staff, an in-depth knowledge of local customs and practices will be useful. It is therefore

[21] Figures as at 15 July 2007.

proposed that one National Officer be included in each of the three missions to provide advice and assistance to national staff.

Field legal officers to assist in the management evaluation function and to advise heads of mission in discharging their delegation of disciplinary authority

157. As agreed by the Staff-Management Coordination Committee at its twenty-eighth session, it is proposed that legal officers be outposted from the Department of Management to selected missions and regional offices outside New York where the workload so justifies. This proposal is based on the assumption that heads of office and of mission will receive delegated disciplinary authority with regard to offences for which censure or a reasonable fine would be an appropriate sanction. The legal officers would report directly to the Department of Management at Headquarters to ensure that the advice given to heads of mission is independent and consistent with organizational policy and practice. It is proposed that these functions be combined with the responsibility for undertaking the preparatory work in the management evaluation of contested decisions.

158. It is proposed, accordingly, on the basis of existing and projected workloads that P-4 legal officers be assigned to MONUC, UNMIL and UNMIT, to provide the heads of those Missions with advice on disciplinary decisions, as well as to support the management evaluation function. Where required, those officers would also provide services to other peacekeeping and special political missions in the region. It would also be anticipated that the incumbents of Legal Officer posts created for similar functions at headquarters duty stations could also provide advice to heads of mission in the relevant region (e.g., New York could provide advice to the United Nations Stabilization Mission in Haiti; Geneva to the United Nations Interim Administration Mission in Kosovo and the United Nations Mission for the Referendum in Western Sahara; Nairobi to the United Nations Mission in Ethiopia and Eritrea, the United Nations Integrated Office in Burundi and the United Nations Peace-building Support Office in the Central African Republic; and Beirut to the United Nations Truce Supervision Organization, the United Nations Interim Force in Lebanon, the United Nations Assistance Mission for Iraq and the United Nations Peacekeeping Force in Cyprus).

VIII. Financial implications and cost-sharing arrangements

159. The internal justice system needs to be fully resourced to ensure its functionality and to ensure equitable access to it. The recommendations of the Secretary-General as contained in the present report, based on the proposals of the Redesign Panel and modified by the Staff-Management Coordination Committee, would entail additional requirements of $16,644,000 (before recosting), or $15,859,600 net of staff assessment, for the year beginning from 1 January 2009, to be financed from the programme budget. An additional $6,784,600 (before recosting) was requested by the Secretary-General in his report (A/61/891).

160. In its resolution 61/261, the General Assembly took note of the report of the Advisory Committee on Administrative and Budgetary Questions (A/61/815), in which the Advisory Committee asked for more specific cost-sharing arrangements to be developed and agreed upon by participating organizations before the proposed system of internal justice was implemented. It is noted that while the costs provided in the present report reflect the total costs of the new system of justice for the year

beginning from 1 January 2009, there is expected to be an element of cost-sharing between peacekeeping operations, the funds and programmes and the United Nations. In addition, certain other organizations within the United Nations system avail themselves of the current administration of justice system. The net amount expected to be financed from the programme budget for the biennium 2008-2009 will be dependent upon the final outcome of the negotiations currently under way with the funds and programmes. It is expected that as deliberations continue on the proposals of the Secretary-General on the administration of justice, additional information will become available.

161. It is proposed to share costs on a headcount basis. Based on the total staff numbers reported in paragraph 15 above, cost-sharing percentages on a headcount basis would be as follows:

United Nations[a]	33.2%
Peacekeeping operations	30.6%
International Tribunal for the Former Yugoslavia	1.8%
International Criminal Tribunal for Rwanda	1.7%
United Nations Children's Fund	16.3%
United Nations Development Programme	12.3%
United Nations Population Fund	2.7%
United Nations Office for Project Services	1.4%

[a] Includes UNHCR.

162. However, as not all funds and programmes will be participating in all elements of the new system of administration of justice, such as the management evaluation function, which, as explained in the present report is for the United Nations and the peacekeeping operations only, only certain elements will be cost-shared. It is expected that the elements to be cost-shared will be the Office of Administration of Justice, which includes the Office of Staff Legal Assistance, and the Office of the United Nations Ombudsman, as well as the costs for interpretation, meeting services and translation.

163. The estimated additional costs of $16,644,000 (before recosting) under the proposed programme budget for the biennium 2008-2009, will cover the costs of the redesigned informal and formal systems of justice for the second year of the biennium 2008-2009. Estimates and the distribution of new posts and related post and non-post costs are contained in annex VIII. In respect of peacekeeping operations, the additional requirements for the period from 1 January to 30 June 2009 are estimated at $811,100, with resources required for the period from 1 July 2009 to 30 June 2010 totalling approximately $3.2 million.

Additional requirements identified

164. Resources additional to those identified by the Secretary-General in his note (A/61/758) are requested for the United Nations Dispute Tribunal, the United Nations Appeals Tribunal and the Office of the Ombudsman.

165. Following the Secretary-General's proposal to establish two separate Registries for the United Nations Administrative Tribunal and the United Nations Dispute Tribunal to ensure their proper functioning, including the capacity of the judges and the Registries to adjudicate and process the expected load of cases and applications, additional staffing requirements will be necessary. In that regard, the request also takes into account the recommendations of the twenty-eighth session of the Staff-Management Coordination Committee on the draft elements of the statutes and rules of procedure of both the United Nations Dispute Tribunal and the United Nations Appeals Tribunal and on the transitional procedures. An additional seven posts have been identified as necessary to carry out the work of the Registries, along with court management software to ensure that modern registry records are maintained.

166. Two additional General Service (Other level) posts have been requested for the Office of the Ombudsman to ensure that sufficient support is available for the United Nations Ombudsman and the staff of the Office of the United Nations Ombudsman.

Posts

167. In addition to the 34 posts already provided for work related to the administration of justice under the existing programme budget, a further 68 posts (1 ASG, 7 D-1, 5 P-5, 14 P-4, 16 P-3, 3 P-2, 1 GS (PI), 11 GS (OI) and 10 (LI)) financed from the programme budget (see annex VIII, table 3) would be required to staff the revamped administration of justice system, along with the 11 posts (3 D-1, 3 P-5, 4 GS (OI) and 1 (LI)) requested by the Secretary-General in his report (A/61/891). These 113 posts cover the programme budget requirements for the Office of Administration of Justice and the Registries, the judiciary, the Office of the Ombudsman, the Office of Staff Legal Assistance and the Management Evaluation Team, the Office of Legal Affairs and the Office of Human Resources Management. The total additional requirements for the 68 posts will be $4,715,000 under the proposed programme budget for the second year of the biennium 2008-2009.

168. In his note (A/61/758), the Secretary-General proposed, with regard to personnel to be outposted to MONUC, UNMIL and UNMIS for the implementation of the new system of administration of justice in peacekeeping operations, that the presence of the Office of the Ombudsman in each of the three missions include the posts of one D-1, one P-3 and one local General Service staff. The requirements contained in the present report, however, reflect upgrading the post at the P-3 level to the P-4 level to cover regional responsibilities and other specific needs, such as the broader linguistic requirements of the region. The proposal contained in the note, with respect to the Office of Staff Legal Assistance in the three Missions, has similarly been revised as legal assistance will need to be provided to locally recruited staff and an in-depth knowledge of local customs and practices will be required. It is therefore proposed that provisions be made for one National Officer for each of the three Missions to render advice and assistance to national staff.

169. Accordingly, the staffing requirements in respect of peacekeeping operations will comprise 21 posts (3 D-1, 6 P-4, 3 P-3, 3 National Officers and 6 national GS staff) as follows: nine posts for the Office of the Joint Ombudsmen (3 D-1, 3 P-4 and 3 national GS staff); nine posts for the Office of Staff Legal Assistance (3 P-3, 3 National Officers and 3 national GS staff); and three P-4 posts for Legal Officers to heads of missions on disciplinary and management evaluation matters (see annex VIII, table 5).

170. Resource requirements for the period from 1 January to 30 June 2009 attributable to the proposed establishment of the 21 posts mentioned above are estimated at $629,600 (see annex VIII, table 4).

Non-post resources

171. Annex VIII, table 2, details the non-post requirements of $11,144,600 for the proposed programme budget for the year from 1 January 2009. The additional non-post requirements comprise:

(a) General temporary assistance related to training and preparation of a handbook. The training is to be provided to all persons involved in the internal justice system at Headquarters, offices away from Headquarters and field missions. The programme will need to be delivered on a continuous basis to ensure training of new staff after the initial launch and to provide refresher courses and updates to existing staff. The handbook will include the text of new rules, administrative issuances and guidelines for implementing the new system. Its preparation will be achieved through a process of extensive consultation prior to translation and distribution;

(b) Non-staff compensation comprises the compensation costs for nine judges who will be considered United Nations officials and will receive salary and allowances equivalent to United Nations staff members at the Director level, and honorariums for judges of the Appeals Tribunal, equivalent to rates applicable to the ILO Administrative Tribunal, to provide for the services of judges rendering decisions on Appeals Tribunal cases;

(c) Consultancy funds for engaging international professional mediators, who will be called upon when the Chief Mediator determines that their services are required for reasons of expedience, language or cultural sensitivity, and for the provision of panels to assist in the appointment of judges and ombudsmen;

(d) Travel of judges and staff to hold sessions outside of New York, Geneva and Nairobi; travel of staff to appear personally for Dispute Tribunal cases; and travel for representatives of respondents to attend sessions;

(e) Contractual services, including the provision of support and interpretation services for meetings; the translation of documents and judgements; the design, development and delivery of new training programmes on the informal and formal justice systems, including on mediation, court administration and the system of the Dispute Tribunal and the Appeals Tribunal (including the development of pilot and train-the-trainer programmes); the development of an online programme; and translation of the handbook;

(f) General operating expenses, supplies and furniture and equipment related to the proposed establishment of the 68 new posts, including office accommodations and court management software;

(g) As indicated in annex VIII to the present report (see table 4), non-post resource requirements in respect of peacekeeping operations for the period from 1 January to 30 June 2009 are estimated at $181,500.

172. The following factor is important in considering the financial implications: the total impact of the new system, in terms of caseload and related staff time, cannot be fully estimated until both the informal and formal components of the system have been implemented and staff and managers have developed confidence in the new mechanisms. In this regard, the Secretary-General expects to submit to the General Assembly at its sixty-fifth session a report on the implementation of the system of administration of justice.

IX. Recommendations and actions to be taken by the General Assembly

173. The Secretary-General has prepared the present comments on the recommendations of the Redesign Panel after having held extensive consultations with staff and management, including dedicated sessions of the Staff-Management Coordination Committee. He considers that the recommendations of the Panel, with the modifications set out in his note (A/61/758) and his report on revised estimates (A/61/891) will provide the Organization with an effective internal justice system in which staff, management and Member States can have confidence. He requests the General Assembly to give due consideration to these proposals and to approve the resources necessary for full implementation.

174. Should the General Assembly agree on the proposals contained in the present report, the additional requirements in respect of the proposed programme budget for the biennium 2008-2009 would amount to $16,644,000 (before recosting). In addition $6,784,600 was requested in the report of the Secretary-General (A/61/891). Accordingly, the total requirements for the proposed programme budget for the biennium 2008-2009 amount to $23,428,600 (see annex VIII, table 1).

175. Since it is important that the personnel to be outposted to MONUC, UNMIL, UNMIS and UNMIT for the implementation of the new system of administration of justice in peacekeeping operations given the nature of their functions, be operationally independent, and in consideration of the need to provide backstopping support to peacekeeping operations in the administration of justice, it is proposed that post and non-post requirements related to those personnel, estimated for the period from 1 January to 30 June 2009 at $811,100, be financed from the peacekeeping support account.

176. In paragraph 6 of its resolution 61/279, on strengthening the capacity of the United Nations to manage and sustain peacekeeping operations, the General Assembly reaffirmed that support account funds shall be used for the sole purpose of financing human resources and non-human resources requirements for backstopping and supporting peacekeeping operations at Headquarters, and that any changes in this limitation require the prior approval of the General Assembly.

177. Pursuant to that requirement, the approval of the General Assembly is hereby sought to include in the peacekeeping support account budget for the 2008/09 period, to be submitted to the Assembly during its sixty-second session, the post and non-post requirements in support of the implementation of the new system of administration of justice in peacekeeping operations, estimated at $811,100 for the period from 1 January to 30 June 2009.

Annex I

Summary of current disciplinary proceedings in the Secretariat under administrative instruction ST/AI/371

(From reporting to conclusion of disciplinary proceedings)

Process	*Responsible office and actions*
Reporting of incident	Incidents of possible misconduct are reported to the head of department/office or the Office of Internal Oversight Services, who review the information and determine whether there are sufficient grounds to conduct an investigation.
Conduct of investigation	Depending on the subject matter and complexity of the investigation, the investigation will be conducted by the Office of Internal Oversight Services or other investigative entity (Department of Safety and Security; head of department/office; panel appointed by a programme manager; or the Office of Human Resources Management for complaints of sexual harassment).
Placement on special leave pending the completion of the investigation	The head of department/office can recommend placement on special leave with pay pending investigation, where appropriate. The decision is taken by the Assistant Secretary-General for Human Resources Management.
	The Office of Internal Oversight Services or other investigating entity prepares the investigation report (containing findings concerning alleged irregularities, violations or improper conduct), which is transmitted to the head of department/office.
Review of investigation report	Where the head of department/office believes there are grounds to indicate that misconduct has occurred for which disciplinary measures may be imposed, he or she transmits the report to the Assistant Secretary-General for Human Resources Management for possible disciplinary action and may recommend suspension, from duty, where appropriate.
	Where the head of department/office believes that no such grounds exist, he or she will close the case and may impose an appropriate administrative measure. If administrative measures are envisioned, the staff member's comments are requested.
Decision on charging staff member	The Office of Human Resources Management analyses the investigation report and, where supported by evidence, issues charges of misconduct to the staff member, informs him/her of due process rights and requests his/her comments.
Suspension from duty with or without pay	The Assistant Secretary-General for Human Resources Management may place a staff member on suspension with pay, normally for a period not to exceed three months or until completion of disciplinary process. Where the nature and gravity of the allegations, if established, would result in summary dismissal, the Assistant Secretary-General may seek the approval of the Under-Secretary-General for Management to suspend the staff member without pay.

Process	*Responsible office and actions*
	Where the Assistant Secretary-General believes that no grounds for disciplinary action exist, he or she will decide that the case should be closed and may decide that administrative measures are warranted. If administrative measures are envisioned, the staff member's comments are requested.
Review of the staff member's comments	The Assistant Secretary-General for Human Resources Management analyses the staff member's comments and any additional evidence.
Decision on further action on the charges	The Assistant Secretary-General for Human Resources Management will decide whether to: Close the case if a satisfactory explanation is provided by the staff member; Make a decision on the imposition of administrative measures; Refer the case to a Joint Disciplinary Committee for advice on disciplinary measures; or Recommend summary dismissal through the Under-Secretary-General for Management.
Decision on disciplinary measures	The Deputy Secretary-General, on behalf of the Secretary-General, decides on the imposition of disciplinary measures. A decision to summarily dismiss requires prior advice from the Office of Legal Affairs. A decision on all other disciplinary measures requires prior advice by the Joint Disciplinary Committee, unless waived by the staff member.
Recourse by staff member	A staff member has the right to appeal to the Joint Appeals Board in respect of administrative measures imposed, or to the United Nations Administrative Tribunal in respect of any decision by the Deputy Secretary-General, acting on behalf of the Secretary-General, to impose a disciplinary measure after advice from a Joint Disciplinary Committee. In cases where the Deputy Secretary-General has imposed the disciplinary measure of summary dismissal without prior advice from a Joint Disciplinary Committee, a staff member must first have his or her case reviewed by the Joint Disciplinary Committee at Headquarters. The Deputy Secretary-General will either confirm or modify the original decision to summarily dismiss in the light of the Joint Disciplinary Committee report. Thereafter, a staff member has the right to appeal the reviewed decision to the United Nations Administrative Tribunal.

Annex II

Summary of proposed new disciplinary proceedings in the Secretariat

(From reporting to conclusion of disciplinary proceedings)

Process	*Responsible office and actions at Headquarters*	*Responsible office and actions away from Headquarters*
Reporting of incident	Incidents of possible misconduct are reported to the head of department/office or the Office of Internal Oversight Services, who review the information and determine whether there are sufficient grounds to conduct an investigation.	Same as for Headquarters.
Conduct of investigation	Depending on the subject matter and complexity of the investigation, the investigation will be conducted by the Office of Internal Oversight Services or other investigative entity (Department of Safety and Security; panel appointed by a programme manager; or the Office of Human Resources Management).	The investigation will be conducted by the Office of Internal Oversight Services or other investigative entity appointed by the head of office away from Headquarters or Special Representative of the Secretary-General/head of mission.
Placement on special leave pending the completion of the investigation	The head of department/office can recommend placement on administrative leave with pay pending investigation, where appropriate. The decision is taken by the Assistant Secretary-General for Human Resources Management.	In appropriate cases, the head of office away from Headquarters or Special Representative of the Secretary-General/head of mission may place a staff member on administrative leave with pay for up to 15 days. Approval of the Assistant Secretary-General for Human Resources Management is required for administrative leave in excess of 15 days.
	The Office of Internal Oversight Services or other investigating entity prepares the investigation report (containing findings concerning alleged irregularities, violations or improper conduct), which is transmitted to the head of department/office.	The Office of Internal Oversight Services or other investigating entity prepares the investigation report (containing findings concerning alleged irregularities, violations or improper conduct), which is transmitted to the head of office away from Headquarters or Special Representative of the Secretary-General/head of mission.
Review of investigation report	Where the head of department/office or the Under Secretary-General for Internal Oversight Services (or their designees) believes there are grounds to indicate that misconduct has occurred for which disciplinary measures may be imposed, he or she will transmit the report to the Assistant Secretary-General for Human Resources Management for possible disciplinary action and may recommend placing the staff member on administrative leave, where appropriate and if not done so already.	(*The delegation of authority described from this box to the box "Decisions on disciplinary measures" is subject to the necessary capacity being in place.*) The head of office away from Headquarters or Special Representative of the Secretary-General/head of mission analyses the investigation report with advice from a legal officer who, where appropriate, will be outposted by the Department of Management/Office of Human Resources Management (the legal officer).

Process	*Responsible office and actions at Headquarters*	*Responsible office and actions away from Headquarters*
	Where the head of department/office finds that no grounds for disciplinary action exist, he or she will close the case and may impose an appropriate administrative measure, after prior notification to the Office of Internal Oversight Services of the proposed course of action, where appropriate.	
	The staff member will be notified in writing of the outcome of the investigation.	The staff member will be notified in writing of the outcome of the investigation.
Decision on charging staff member	The Office of Human Resources Management analyses the investigation report and, where supported by evidence, issues charges of misconduct to the staff member, informs him/her of due process rights and requests his/her comments.	If the head of office away from Headquarters or Special Representative of the Secretary-General/head of mission, having analysed the investigation report with the advice of the legal officer, finds that allegations of misconduct are supported by evidence, he/she issues charges of misconduct to the staff member, advises him/her of due process rights and requests his/her comments.
	Where the Assistant Secretary-General for Human Resources Management finds that no grounds for disciplinary action exist, he or she may also decide that the case should be closed and/or that administrative measures be imposed.	Where the head of office away from Headquarters or Special Representative of the Secretary-General/head of mission finds that no grounds for disciplinary action exist, he or she will also decide that the case should be closed and may decide that administrative measures will be imposed.
Placement on administrative leave with or without pay	The Assistant Secretary-General for Human Resources Management may place a staff member on administrative leave with pay, normally for a period not to exceed three months or until completion of disciplinary process. Where administrative leave without pay is deemed appropriate, approval by the Under-Secretary-General for Management must be obtained.	Decision by the head of office away from Headquarters or Special Representative of the Secretary-General/head of mission to place a staff member on administrative leave is the same as described above in the second box.
Review of the staff member's comments	The Assistant Secretary-General for Human Resources Management analyses the staff member's comments and any additional evidence.	The head of office away from Headquarters or Special Representative of the Secretary-General/head of mission, with the advice of the legal officer, analyses the staff member's comments and any additional evidence. The legal officer provides such advice after consultation with counsel representing the staff member.

Process	*Responsible office and actions at Headquarters*	*Responsible office and actions away from Headquarters*
Decision on disciplinary measures	The Under-Secretary-General for Management, acting on behalf of the Secretary-General, will decide to: Close the case, if a satisfactory explanation is provided by the staff member; Take administrative action; or Impose appropriate disciplinary measure(s), which may include summary dismissal.	The Special Representative of the Secretary-General/head of mission/head of office away from Headquarters, following advice of the legal officer, will decide to: Close the case, if a satisfactory explanation is provided by the staff member; Take administrative action; Impose disciplinary measures of censure and/or fine; or Where more serious disciplinary measures are warranted, refer the case to the Under-Secretary-General for Management, through the Office of Human Resources Management.
	Decisions to summarily dismiss require the prior advice of the Office of Legal Affairs.	Decisions to summarily dismiss require the prior advice of the Office of Legal Affairs.
Recourse by staff member	A staff member has the right to appeal any decision to impose a disciplinary measure, first to the Dispute Tribunal and thereafter to the Appeals Tribunal.	Same as for Headquarters.

Annex III

Draft elements of the statute of the United Nations Dispute Tribunal

It appears that the functions of the United Nations Dispute Tribunal would closely reflect the functions of the existing United Nations Administrative Tribunal, as a first-instance recourse in the formal system of administration of justice. The statute of the existing United Nations Administrative Tribunal has therefore been used as a starting point in drafting the proposed elements. It should be noted that in the right-hand column below, the language of the draft elements is italicized, and explanatory comments are in normal type. It should also be noted that while the substance of the draft elements set out below would be reflected in the language of the statute, the actual wording of the text might require adjustment for legal accuracy.

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
Article 1 A Tribunal is established by the present Statute to be known as the United Nations Administrative Tribunal.	**Article 1: establishment** The provision would state that the Dispute Tribunal is established by the Statute, e.g.: *A Tribunal is established by the present Statute to be known as the United Nations Dispute Tribunal.*
Article 2 1. The Tribunal shall be competent to hear and pass judgment upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. The words "contracts" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance, including the staff pension regulations. 2. The Tribunal shall be open: (a) To any staff member of the Secretariat of the United Nations even after his or her employment has ceased, and to any person who has succeeded to the staff member's rights on his or her death; (b) To any other person who can show that he or she is entitled to rights under any contract or terms of appointment, including the provisions of staff regulations and rules upon which the staff member could have relied.	**Article 2: jurisdiction** This provision would set out the jurisdiction of the Dispute Tribunal. It is proposed that the article would reflect the comments of the Secretary-General, as contained in his note (A/61/758). *The Tribunal shall have jurisdiction over:* *(a) Appeals by individuals entitled to file an appeal against the United Nations or its separately administered funds and programmes:* *(i) Alleging non-compliance with the terms of their appointment or the conditions of their employment. This would include an administrative decision stating that no action would be taken on a complaint of prejudicial or injurious conduct that did not conform to the Staff Regulations and Rules, if management evaluation of the complaint led to the conclusion that the claim was not detailed or specific enough to justify an investigation or was not corroborated;* *(ii) In specialized or technical matters, where the advice of a joint body is required before an administrative decision is taken and proceedings*

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
3. In the event of a dispute as to whether the Tribunal has competence, the matter shall be settled by the decision of the Tribunal.	*will be instituted afterwards, including cases requiring the advice of the Advisory Board on Compensation Claims and of medical boards;* (See A/61/758, para. 18).
4. The Tribunal shall not be competent, however, to deal with any applications where the cause of complaint arose prior to 1 January 1950.	*(iii) Concerning an administrative decision imposing disciplinary measures;*
	(b) Appeals by a staff association recognized under regulation 8.1 (b) of the Staff Regulations against the United Nations or its separately administered funds and programmes:
	(i) To enforce the rights of the staff association, as recognized under the Staff Regulations and Rules;
	(ii) To file an appeal in its own name on behalf of a group of named staff members who are instituting proceedings under subparagraph (a) above and who are affected by the same administrative decisions arising out of the same facts;
	(iii) To support an appeal by one or more individuals instituting proceedings under subparagraph (a) above against the same administrative decision by means of the submission of a friend-of-the-court brief or by intervention.
	(For subparas. (a) and (b), above, see A/61/758, paras. 23-26).
	The Tribunal shall also have the power to refer appropriate cases to the Secretary-General and to the heads of separately administered funds and programmes for possible action to enforce accountability. (See A/61/758, para. 27.)
	This provision would also define what individuals would have access to the Tribunal. The article should be drafted in clear language to avoid any ambiguity regarding who has access to the Tribunal. The Secretary-General proposed that the following individuals would have access:
	(a) Staff members;
	(b) Former staff members;

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*

(c) Persons making claims in the name of incapacitated or deceased staff members;

(d) All persons who perform work by way of their own personal service for the Organization, no matter the type of contract by which they are engaged, but not including military or police personnel in peacekeeping operations, volunteers (other than United Nations Volunteers), interns, type II gratis personnel (as defined in administrative instruction ST/AI/1999/6), or persons performing work in conjunction with the supply of goods or services extending beyond their own personal service or pursuant to a contract entered into with a supplier, contractor or consulting firm; and

(e) Any other person to whom jurisdiction is extended. Any proposal relating to the question of whether the scope of the jurisdiction of the Tribunal may be extended to persons appointed by the General Assembly or any principal organ (other than the Secretariat) to a remunerated post in the Organization requires specific approval by the General Assembly or the principal organ concerned. (See A/61/758, paras. 10 and 11.)

Regarding paragraph (c) above, the addition of the words "incapacitated or" reflects a new proposal intended to simplify article 2, paragraph 2 (b), of the Statute of the United Nations Administrative Tribunal and is not contained in paragraph 10 of the note by the Secretary-General (A/61/758).

Provisions on transitional procedures

The Dispute Tribunal would have competence over cases transferred after 1 January 2009 to the Tribunal by the joint appeals boards, and the joint disciplinary committees/disciplinary committees in respect of review of decisions to impose summary dismissal.

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
Article 3	**Article 3: judges**
1. The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess judicial experience in the field of administrative law or its equivalent within their national jurisdiction. Only three members shall sit in any particular case.	This provision would address the issues relating to the judges, including the following (detailed proposals concerning the selection of the Dispute Tribunal judges are reflected in a separate section of the present report):
2. The members shall be appointed by the General Assembly for four years, and may be reappointed once. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his or her predecessor's term, and may be reappointed once.	*(a) The Tribunal shall be composed of nine full-time judges sitting in panels of three when considering cases on the merits (see subpara. (a) under article 11, below);*
3. The Tribunal shall elect its President and its two Vice-Presidents from among its members.	*(b) No two judges should be of the same nationality;*
4. The Secretary-General shall provide the Tribunal with an Executive Secretary and such other staff as may be considered necessary.	*(c) Gender and regional balance should be respected;*
5. No member of the Tribunal can be dismissed by the General Assembly unless the other members are of the unanimous opinion that he or she is unsuited for further service.	*(d) All judges of the Tribunal will be appointed by the Secretary-General from a list of candidates prepared by the Internal Justice Council.* (See A/61/758, paras. 19 and 32.)
6. In case of a resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal for transmission to the Secretary-General. This last notification makes the place vacant.	*(e) To be eligible for appointment as a judge, a person shall:*
	(i) Be of high moral character;
	(ii) Have at least 10 years of judicial experience in the field of administrative law or its equivalent within his/her national jurisdiction;
	(iii) Serve strictly in his/her personal capacity and enjoy full independence.
	Subparagraph e (ii) above differs from paragraph 129 (b) of the report of the Redesign Panel on the United Nations system of administration of justice (A/61/205), in which the Panel proposed that judges of the Dispute Tribunal should have the qualifications and recognized competence necessary for appointment to high judicial office and at least 10 years relevant professional experience. The Secretary-General considered that the qualifications of the Dispute Tribunal judges should reflect those applicable to the members of the United Nations Administrative Tribunal, as set out in article 3, paragraph 1, of the United Nations Administrative Tribunal statute, including:
	(a) Judges should be appointed for a term of five years, renewable once only, and be removable only by

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
	the General Assembly, at the request of the Secretary-General, and only on grounds of proven misconduct or incapacity. (See A/61/205, para. 130);
	(b) A provision concerning the term of a judge replacing a judge whose term has not expired (see article 3, para. 2 of the United Nations Administrative Tribunal statute);
	(c) A provision concerning resignation of a judge (see article 3, para. 6, of the United Nations Administrative Tribunal statute);
	(d) A person appointed as a judge will not be eligible for appointment to any other post within the United Nations, except another judicial post. (See A/61/205, para. 130.)
Article 4	**Article 4: sessions**
The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session. Extraordinary sessions may be convoked by the President when required by the cases on the list.	This provision would address issues concerning the sessions of the Tribunal, including the following:
	(a) Locations: the Dispute Tribunal panels would be established in Geneva, Nairobi and New York. (See A/61/758, para. 20);
	(b) "Ordinary sessions" (no "extraordinary sessions" would be necessary as the judges of the Dispute Tribunal would serve on a full-time basis);
	(c) Travel of judges to other duty stations where United Nations Dispute Tribunal Registries are not located, such as in Latin America and Asia, as required by the caseload. (See A/61/758, para. 20).
Article 5	**Article 5: administration of the Tribunal**
1. The Secretary-General of the United Nations shall make the administrative arrangements necessary for the functioning of the Tribunal.	This provision would address the administrative arrangements for the Dispute Tribunal. Issues to be addressed would include the following (the Secretary-General's proposals concerning the Registries of the Dispute Tribunal are set out in paragraphs 129-143 of the present report):
2. The expenses of the Tribunal shall be borne by the United Nations.	*(a) The Registries would be established in New York, Geneva and Nairobi;*

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
	(b) *Cost-sharing arrangements* (the expenses of the Tribunal would be borne by the United Nations, subject to cost-sharing arrangements agreed to by participating organizations).
Article 6	**Article 6: rules of the Tribunal**
1. Subject to the provisions of the present Statute, the Tribunal shall establish its rules.	This provision would state that *the Tribunal shall establish its own rules*. Issues to be addressed in the rules would include the following (the Secretary-General's proposals concerning the rules of the Dispute Tribunal are set out in paragraphs 129-143 of the present report):
2. The rules shall include provisions concerning:	*(a) Election of the President and Vice-Presidents of the Tribunal;*
(a) Election of the President and Vice-Presidents;	*(b) Presentation of appeals and the procedure to be followed in respect to them;*
(b) Composition of the Tribunal for its sessions;	*(c) Intervention;*
(c) Presentation of applications and the procedure to be followed in respect to them;	*(d) Hearings;*
(d) Intervention by persons to whom the Tribunal is open under paragraph 2 of article 2, whose rights may be affected by the judgement;	*(e) Confidentiality and inadmissibility of verbal or written statements made during the mediation process.* (See A/61/758, para. 12);
(e) Hearing, for purposes of information, of persons to whom the Tribunal is open under paragraph 2 of article 2, even though they are not parties to the case; and generally,	*(f) Other matters relating to the functions of the Tribunal.*
(f) Other matters relating to the functioning of the Tribunal.	
Article 7	**Article 7: receivability and languages**
1. An application shall not be receivable unless the person concerned has previously submitted the dispute to the joint appeals body provided for in the Staff Regulations and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Administrative Tribunal.	This provision would set out issues concerning receivability and languages. Issues to be addressed would include the following:
2. In the event of the joint body's recommendations being favourable to the application submitted to it, and insofar as this is the case, an application to the Tribunal shall be receivable if the Secretary-General has:	*(a) An appeal would be receivable provided the appellant has previously submitted the contested administrative decision for management evaluation, where required, and:*
(a) Rejected the recommendations;	*(i) If the response is not satisfactory to the appellant, he/she may submit an appeal within 30 days of the response; or*
	(ii) If a response is not provided within 45 days, the appellant may submit an appeal within 30 days from the expiry of the 45-day period.
	It should be noted that the time limits for the filing of

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*

(b) Failed to take any action within thirty days following the communication of the opinion;

(c) Failed to carry out the recommendations within thirty days following the communication of the opinion.

3. In the event that the recommendations made by the joint body and accepted by the Secretary-General are unfavourable to the applicant, and insofar as this is the case, the application shall be receivable, unless the joint body unanimously considers that it is frivolous.

4. An application shall not be receivable unless it is filed within ninety days reckoned from the respective dates and periods referred to in paragraph 2 above, or within ninety days reckoned from the date of the communication of the joint body's opinion containing recommendations unfavourable to the applicant. If the circumstance rendering the application receivable by the Tribunal, pursuant to paragraphs 2 and 3 above, is anterior to the date of announcement of the first session of the Tribunal, the time limit of ninety days shall begin to run from that date. Nevertheless, the said time limit on his or her behalf shall be extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his or her own affairs files the application in the name of the said staff member.

5. In any particular case, the Tribunal may decide to suspend the provisions regarding time limits.

6. The filing of an application shall not have the effect of suspending the execution of the decision contested.

7. Applications may be filed in any of the six official languages of the United Nations.

appeals, including the issue of when the time limits would start to run, must be clearly specified, in order to avoid any ambiguity.

(b) In any particular case, the Tribunal may decide to suspend the provisions regarding time limits;

(c) Once parties have reached agreement through mediation, they are precluded from litigating claims covered by that agreement; a party should, however, be able to bring an action to enforce the implementation of that agreement, if it is not implemented in a timely manner. (See A/C.5/61/21, appendix I, para. 5);

(d) An Appeal must also satisfy the requirements for the transitional procedures, to be set out in article 2 of the Statute, where applicable. (See "Provisions on transitional procedures", under article 2 above);

(e) The filing of an Appeal would not suspend the execution of the contested administrative decision. (See article 8, para. 6, of the United Nations Administrative Tribunal statute);

(f) An Appeal may be filed in any of the official languages of the United Nations. (See article 8, para. 7, of the United Nations Administrative Tribunal statute.)

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
Article 8 Where the three members of the Tribunal sitting in any particular case consider that the case raises a significant question of law, they may, at any time before they render judgement, refer the case for consideration by the whole Tribunal. The quorum for a hearing by the whole Tribunal shall be five members.	**Article 8** Provision concerning the ability to refer cases to the plenary would not seem necessary, since it appears that an appeal of Dispute Tribunal judgements to the United Nations Appeals Tribunal would not be precluded for cases raising "a significant question of law". Moreover, the location of the Dispute Tribunal judges in three different cities would create practical difficulty in conducting plenary sessions.
Article 9 The oral proceedings of the Tribunal shall be held in public unless the Tribunal decides that exceptional circumstances require that they be held in private.	**Article 9: oral hearings** This provision would address issues concerning oral hearings, including the following: *(a) That oral hearings will be open to the public in principle but that the Dispute Tribunal may order closed hearings, at its initiative or at the request of one of the parties* (this reflects the agreement made at the special session of the Staff-Management Coordination Committee in Nairobi). *(b) That it would be for the judges to decide whether the Appellant should appear in person before the Tribunal, in particular in appeals concerning disciplinary matters, and that personal appearance would include videoconferencing.* (See A/61/205, para. 24).
Article 10 1. If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked. At the same time, the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgement, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his or her case, provided that such compensation shall not exceed the equivalent of two years' net base salary of the applicant. The Tribunal may, however, in exceptional cases, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order.	**Article 10: powers** This provision would address the powers of the Tribunal, including the following issues: *(a) The Tribunal would make binding decisions.* (See A/61/758, para. 17); *(b) Upon request by the staff member concerned, the Tribunal may suspend action on implementation of a contested administrative decision. The Dispute Tribunal's decisions on suspension of action are not subject to appeal.* (See A/61/758, para. 30 (e)); *(c) When ordering "specific performance" in cases challenging appointments, promotions or terminations of appointment, the Dispute Tribunal should be required to set an amount of compensation that could be paid as an alternative to specific performance. Appointments would not be set aside.* (See A/61/758, para. 21); *(d) Compensation ordered will not be subject to*

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
2. Should the Tribunal find that the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits of the case, order the case remanded for institution or correction of the required procedure. Where a case is remanded, the Tribunal may order the payment of compensation, which is not to exceed the equivalent of three months' net base salary, to the applicant for such loss as may have been caused by the procedural delay.	
3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 14.	
	the normal limit of two years' salary as was applied by the United Nations Administrative Tribunal. (See A/61/758, para. 22);
	(e) There should be no exemplary or punitive damages awarded. (See A/C.5/61/21, appendix I, para. 11);
	(f) That the Tribunal may make summary decisions in certain cases (e.g., the issue of receivability), and make interim orders/injunctive relief;
	(g) That the Tribunal may refer cases for mediation at any time before a judgement is rendered (See A/61/205, para. 90);
	(h) That the Tribunal may refer appropriate cases to the Secretary-General and the executive heads of the separately administered funds and programmes for possible action to enforce accountability. (See A/61/758, para. 27.)
Article 11	**Article 11: decisions of the Tribunal**
1. The Tribunal shall take all decisions by a majority vote.	This provision would address issues concerning decisions of the Tribunal, including the following:
2. Subject to the provisions of article 12, the judgements of the Tribunal shall be final and without appeal.	*(a) That certain decisions (e.g., on procedure, receivability, interim orders) may be taken by a single judge, whereas all decisions on substance would require review by a full panel of three judges who would take decisions by majority vote;*
3. The judgements shall state the reasons on which they are based.	*(b) That the judgements would be in writing and state the reasons for the decision;*
4. The judgements shall be drawn up, in any of the six official languages of the United Nations, in two originals, which shall be deposited in the archives of the Secretariat of the United Nations.	*(c) The languages of the judgements;*
5. A copy of the judgement shall be communicated to each of the parties in the case. Copies shall also be made available on request to interested persons.	*(d) Distribution;*
	(e) Publication.
	(See article 11 of the United Nations Administrative Tribunal statute).

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
Article 12 The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.	**Article 12: revisions of judgements** This provision would indicate that: *The United Nations Dispute Tribunal would have power to make corrections to its judgements, to revise or interpret its decisions and to order the execution of its decisions.* Grounds for making corrections, revisions/ interpretations and ordering executions of decisions would be set out in this provision. (See article 12 of the United Nations Administrative Tribunal statute).
Article 13 The present Statute may be amended by decision of the General Assembly.	**Article 13: amendment** This provision would indicate that: *The Statute may be amended by decision of the General Assembly* (see article 13 of the United Nations Administrative Tribunal statute).
Article 14 1. The competence of the Tribunal has been extended to the staff of the Registries of the International Court of Justice and the International Tribunal for the Law of the Sea, and to the staff of the International Seabed Authority upon the exchange of letters between the Secretary-General of the United Nations and the President of the Court, the President of the International Tribunal and the Secretary-General of the Seabed Authority, respectively, establishing the relevant conditions. 2. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of the regulations of the United Nations Joint Staff Pension Fund arising out of the decision of the United Nations Joint Staff Pension Board submitted to the Tribunal by: (a) Any staff member of a member organization of the Pension Fund which has accepted the jurisdiction of the Tribunal in Pension Fund cases who is eligible under article 21 of the regulations of the Fund as a participant in the	**Article 14: extension of the jurisdiction** With respect to the issue, whether the jurisdiction of the Tribunal may be extended to persons appointed by the General Assembly or any principal organ (other than the Secretariat) to a remunerated post in the Organization, see comment on article 2, paragraph 2 (e). It is proposed that a provision reflecting article 14, paragraph 4, of the United Nations Administrative Tribunal statute be included in the statute of the Dispute Tribunal.

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Dispute Tribunal*
Fund, even if his or her employment has ceased, and any person who has acceded to such staff member's rights upon his or her death;	
(b) Any other person who can show that he or she is entitled to rights under the regulations of the Pension Fund by virtue of the participation in the Fund of a staff member of such member organization.	
3. The competence of the Tribunal may be extended to any specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. Each such special agreement shall provide that the agency concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that agency and shall include, inter alia, provisions concerning the agency's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.	
4. The competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that organization or entity and shall include, inter alia, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing of the expenses of the Tribunal.	

Annex IV

Draft elements of the statute of the United Nations Appeals Tribunal

It is envisaged that the statute of the United Nations Appeals Tribunal would consist of two parts. The first part would consist of the statute of the United Nations Administrative Tribunal, set out in the left-hand column below, subject to any necessary revisions to be made by the General Assembly (e.g., to make it consistent with the second part of the statute). The first part of the statute would be used by the United Nations Appeals Tribunal acting as an Administrative Tribunal. The second part of the statute will be developed on the basis of the draft elements set out in the right-hand column below, and it would be used by the United Nations Appeals Tribunal acting in its appellate capacity.

The draft elements set out below are for the second part of the statute. It should be noted that in the right-hand column, the language of the draft elements is italicized, and explanatory comments are in normal type. It should also be noted that, while the substance of the draft elements set out below would be reflected in the language of the statute, the actual wording of the text might require adjustment for legal accuracy.

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
Article 1	**Article 1: establishment**
A Tribunal is established by the present Statute to be known as the United Nations Administrative Tribunal.	The provision would state that the Appeals Tribunal is established by the statute, e.g.: *A Tribunal is established by the present Statute to be known as the United Nations Appeals Tribunal.*
Article 2	**Article 2: jurisdiction**
1. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. The words "contracts" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance, including the staff pension regulations.	This provision would set out the jurisdiction of the United Nations Appeals Tribunal acting in its appellate capacity. The provision would state that: *The Appeals Tribunal shall exercise appellate jurisdiction on applications by either party to a judgement rendered by the Dispute Tribunal, where the Dispute Tribunal:* *(a) Has exceeded its jurisdiction or competence;* *(b) Has failed to exercise jurisdiction vested in it;* *(c) Has committed a fundamental error in procedure that has occasioned a failure of justice;* *(d) Has erred on a question of law; or*

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
	(e) Has erred on a question of material fact. See note by the Secretary-General (A/61/758, para. 28).
2. The Tribunal shall be open:	This provision would state that:
(a) To any staff member of the Secretariat of the United Nations even after his or her employment has ceased, and to any person who has succeeded to the staff member's rights on his or her death;	*An application to the United Nations Appeals Tribunal acting in its appellate capacity may be submitted by either party (i.e. the appellant or the respondent) in the appeal to the Dispute Tribunal, on which the Dispute Tribunal has rendered a judgement.* (See A/61/758, para. 18.)
(b) To any other person who can show that he or she is entitled to rights under any contract or terms of appointment, including the provisions of staff regulations and rules upon which the staff member could have relied.	A decision would be required on whether (i) an application might be submitted by persons making claims in the name of an incapacitated or deceased appellant in the appeal to the Dispute Tribunal on which the Dispute Tribunal had rendered a judgement; and/or (ii) a provision similar to article 2, paragraph 2 (b), of the UNAT statute, should be included, so as to refer to jurisdiction for any other person who could show that he or she was entitled to rights under the judgement rendered by the Dispute Tribunal upon which the appellant could have relied.
3. In the event of a dispute as to whether the Tribunal has competence, the matter shall be settled by the decision of the Tribunal.	It appears that article 2, paragraph 3, of the statute of the United Nations Administrative Tribunal could be incorporated into the statute of the Appeals Tribunal without substantive revision. (Hereinafter, when it appears that the provision in the United Nations Administrative Tribunal statute may be retained in the statute of the Appeals Tribunal without substantive revision, the wording "No substantive revision seems necessary" will be used.)
4. The Tribunal shall not be competent, however, to deal with any applications where the cause of complaint arose prior to 1 January 1950.	**Provisions on transitional procedures** The following applications will be considered by the United Nations Appeals Tribunal acting as an administrative tribunal: *(a) Applications in respect of decisions made before 31 December 2008 by the Secretary-General or the executive head of a separately administered United Nations fund or programme on reports of the joint appeals boards or joint disciplinary committees/disciplinary committees;* *(b) Pending applications filed with the current United Nations Administrative Tribunal before 1 January 2009.*

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
Article 3	**Article 3: judges**
1. The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess judicial experience in the field of administrative law or its equivalent within their national jurisdiction. Only three members shall sit in any particular case.	This provision would set out issues relating to the judges, including the following: *(a) The Tribunal shall be composed of seven judges;* *(b) No two members should be of the same nationality;* *(c) Gender and regional balance should be respected;* (See A/61/758, para. 19.) *(d) To be eligible for appointment as a judge, a person shall:* *(i) Be of high moral character;* *(ii) Have at least 15 years of judicial experience in the field of administrative law, or its equivalent within his/her national jurisdiction;* *(iii) Serve strictly in his/her personal capacity and enjoy full independence.* Subparagraph (d) (ii), above, differs from the paragraph 129 (b) of the report of the Redesign Panel on the United Nations system of administration of justice (A/61/205), in which the Panel proposed that judges of the Appeals Tribunal should have the qualifications and recognized competence necessary for appointment to high judicial office, and at least 15 years relevant professional experience. The Secretary-General considers that United Nations Appeals Tribunal judges should have judicial experience in the field of administrative law or its equivalent, reflecting the requirement applicable to the members of the United Nations Administrative Tribunal, as set out in article 3, paragraph 1, of the United Nations Administrative Tribunal statute.
2. The members shall be appointed by the General Assembly for four years, and may be reappointed once. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his or her predecessor's term, and may be reappointed once.	The first sentence of this provision would indicate that: *The judges of the Appeals Tribunal would be appointed by the General Assembly from the list of candidates compiled by the Internal Justice Council, for a term of five years, renewable once only.* (See A/61/758, para. 32.) Regarding the second sentence of article 3, paragraph 2, of the United Nations Administrative Tribunal statute, no substantive revision seems necessary.
3. The Tribunal shall elect its President and	No substantive revision seems necessary. (See A/61/205,

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
its two Vice-Presidents from among its members.	para. 128.)
4. The Secretary-General shall provide the Tribunal with an Executive Secretary and such other staff as may be considered necessary.	This provision would state that: *The Tribunal would be provided with a Registrar and such other staff as may be considered necessary.* (See A/61/205, para. 91.)
5. No member of the Tribunal can be dismissed by the General Assembly unless the other members are of the unanimous opinion that he or she is unsuited for further service.	This provision would state that: *The judges of the Appeals Tribunal would be removable only by the General Assembly, at the request of the Secretary-General, and only on grounds of proven misconduct or incapacity, and a judge of the Appeals Tribunal should not be eligible for appointment to any other post within the United Nations, except another judicial post.* (See A/61/205, para. 130.)
6. In case of a resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal for transmission to the Secretary-General. This last notification makes the place vacant.	No substantive revision seems necessary.
Article 4	**Article 4: sessions**
The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session. Extraordinary sessions may be convoked by the President when required by the cases on the list.	No substantive revision seems necessary.
Article 5	**Article 5: administration of the Tribunal**
1. The Secretary-General of the United Nations shall make the administrative arrangements necessary for the functioning of the Tribunal.	This provision would address the administrative arrangements for the Appeals Tribunal, i.e., the Registry in New York. The Secretary-General's proposals concerning the Registries of the Appeals Tribunal are set out in paragraphs 129-143 of the present report.
2. The expenses of the Tribunal shall be borne by the United Nations.	This provision would address the issue of the expenses of the Appeals Tribunal under the new system. No substantive revision seems necessary, unless the current arrangements are changed for the new system.

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
Article 6	**Article 6: rules**
1. Subject to the provisions of the present Statute, the Tribunal shall establish its rules.	No substantive revision seems necessary. The Secretary-General's proposals concerning the rules of the Appeals Tribunal are set out in paragraphs 129-143 of the present report.
2. The rules shall include provisions concerning:	No substantive revision seems necessary.
(a) Election of the President and Vice-Presidents;	
(b) Composition of the Tribunal for its sessions;	
(c) Presentation of applications and the procedure to be followed in respect to them;	
(d) Intervention by persons to whom the Tribunal is open under paragraph 2 of article 2, whose rights may be affected by the judgement;	
(e) Hearing, for purposes of information, of persons to whom the Tribunal is open under paragraph 2 of article 2, even though they are not parties to the case; and generally,	
(f) Other matters relating to the functioning of the Tribunal.	
Article 7	**Article 7: receivability and languages**
1. An application shall not be receivable unless the person concerned has previously submitted the dispute to the joint appeals body provided for in the Staff Regulations and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Administrative Tribunal.	This provision would state that: *An application would be receivable if it is filed within 45 days of the judgement of the Dispute Tribunal, by either party in the appeal to the Dispute Tribunal on which the Dispute Tribunal has rendered a judgement.* The time limit for the filing of applications, including the issue of when the time limit would start to run, should be clearly indicated, in order to avoid any ambiguity. If jurisdiction is extended to certain individuals filing on behalf of the applicants (see comment above on article 2, paragraph 2), the General Assembly may wish to consider whether separate time limits applicable to them should be determined and stated in the statute. *An application must also satisfy the requirements for the transitional procedures (which would be set out in article 2 of the statute), where applicable.*

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
	(See "Provisions on transitional procedures" under article 2, above.)
2. In the event of the joint body's recommendations being favourable to the application submitted to it, and insofar as this is the case, an application to the Tribunal shall be receivable if the Secretary-General has: (a) Rejected the recommendations; (b) Failed to take any action within thirty days following the communication of the opinion; (c) Failed to carry out the recommendations within thirty days following the communication of the opinion.	Paragraph 2 of the United Nations Administrative Tribunal statute would not be necessary as the provision concerns the United Nations Appeals Tribunal acting in its administrative capacity.
3. In the event that the recommendations made by the joint body and accepted by the Secretary-General are unfavourable to the applicant, and insofar as this is the case, the application shall be receivable, unless the joint body unanimously considers that it is frivolous.	Paragraph 3 of the United Nations Administrative Tribunal statute would not be necessary as the provision concerns the United Nations Appeals Tribunal acting in its administrative capacity.
4. An application shall not be receivable unless it is filed within ninety days reckoned from the respective dates and periods referred to in paragraph 2 above, or within ninety days reckoned from the date of the communication of the joint body's opinion containing recommendations unfavourable to the applicant. If the circumstance rendering the application receivable by the Tribunal, pursuant to paragraphs 2 and 3 above, is anterior to the date of announcement of the first session of the Tribunal, the time limit of ninety days shall begin to run from that date. Nevertheless, the said time limit on his or her behalf shall be extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his or her own affairs files the application in the name of the said staff member.	See comment above on article 7, paragraph 1.
5. In any particular case, the Tribunal may decide to suspend the provisions regarding time limits.	No substantive revision seems necessary.
6. The filing of an application shall not have	This provision would address the issue of whether the

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
the effect of suspending the execution of the decision contested.	filing of an application shall have the effect of suspending the execution of the judgement of the Dispute Tribunal in all cases.
7. Applications may be filed in any of the six official languages of the United Nations.	No substantive revision seems necessary.
Article 8	**Article 8: ability to refer cases to the plenary**
Where the three members of the Tribunal sitting in any particular case consider that the case raises a significant question of law, they may, at any time before they render judgement, refer the case for consideration by the whole Tribunal. The quorum for a hearing by the whole Tribunal shall be five members.	The Redesign Panel has recommended that "there should also be provision [in the Statute] for the President or any two members of [the United Nations Appeals Tribunal] to refer important cases to the whole Tribunal" (see A/61/205, para. 98). In the light of the Panel's recommendation, it is suggested that: Article 8 of the United Nations Administrative Tribunal statute would be incorporated into the statute of the Appeals Tribunal, subject to the replacement of the words "the three members of the Tribunal" with the words "the President or any two members of the Tribunal sitting in any particular case".
Article 9	**Article 9: oral hearings**
The oral proceedings of the Tribunal shall be held in public unless the Tribunal decides that exceptional circumstances require that they be held in private.	No substantive revision seems necessary as article 9 of the United Nations Administrative Tribunal statute reflects the Secretary-General's proposal that proceedings be open to the public in principle but that the United Nations Administrative Tribunal may order closed hearings, at its initiative or at the request of one of the parties. In addition, this provision may state that it would be for the judges to decide whether the applicant should appear in person before the Tribunal, in particular in applications concerning disciplinary matters, and that personal appearance would include videoconferencing.
Article 10	**Article 10: powers**
1. If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked. At the same time, the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgement, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his or her case, provided	This provision would address the powers of the Appeals Tribunal, including the following: *(a) The Tribunal will make binding decisions.* (See A/61/758, para. 21.); *(b) The Tribunal could order specific performance without compensation as an alternative remedy and order rescission of decision.* (See A/61/758, para. 21.); *(c) Compensation would not be subject to the limit*

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
that such compensation shall not exceed the equivalent of two years' net base salary of the applicant. The Tribunal may, however, in exceptional cases, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order.	*of two years' salary;* *(d) No exemplary and punitive damages should be awarded.* (See A/61/758, para. 22 and A/C.5/61/21, appendix I, para. 11.); *(e) The Tribunal may make summary decisions in certain cases (e.g. the issue of receivability), and to make interim orders/injunctive relief;* *(f) The Tribunal may recommend that appropriate cases be transmitted to the Secretary-General and the executive heads of separately administered funds and programmes for possible action to enforce accountability.* (See A/61/758, para. 27.)
2. Should the Tribunal find that the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits of the case, order the case remanded for institution or correction of the required procedure. Where a case is remanded, the Tribunal may order the payment of compensation, which is not to exceed the equivalent of three months' net base salary, to the applicant for such loss as may have been caused by the procedural delay.	This provision would state that: *The Appeals Tribunal may remand cases to the Dispute Tribunal and decide whether, in such cases, any payment may be awarded by the Appeals Tribunal in connection with the remand.*
3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 14.	See comment above on article 10, paragraph 1.
Article 11	**Article 11: decisions of the Tribunal**
1. The Tribunal shall take all decisions by a majority vote.	This provision would state that: *Certain decisions (e.g. on procedure, receivability, interim orders) may be taken by a single judge, whereas all decisions on substance would require review by a full panel of three judges who would take decisions by majority vote.*
2. Subject to the provisions of article 12, the judgements of the Tribunal shall be final and without appeal.	No substantive revision seems necessary.
3. The judgements shall state the reasons on which they are based.	No substantive revision seems necessary.
4. The judgements shall be drawn up, in any of the six official languages of the United	This provision would clarify the issue concerning, inter alia, the format, distribution, publication, languages of

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
Nations, in two originals, which shall be deposited in the archives of the Secretariat of the United Nations.	judgements (i.e., on the Intranet and the Internet), and suppression of names (see A/61/205, para. 94).
5. A copy of the judgement shall be communicated to each of the parties in the case. Copies shall also be made available on request to interested persons.	See comment above on article 11, paragraph 4.
Article 12	**Article 12: revisions of judgements**
The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.	The United Nations Appeals Tribunal should have power to make corrections to its judgements, to revise or interpret them and to order the execution of its judgements. Grounds for making corrections, revisions/interpretations and ordering executions of judgements should be set out in this provision.
Article 13	**Article 13: amendment**
The present Statute may be amended by decision of the General Assembly.	No substantive revision seems necessary.
Article 14	**Article 14: extension of the jurisdiction**
1. The competence of the Tribunal has been extended to the staff of the Registries of the International Court of Justice and the International Tribunal for the Law of the Sea, and to the staff of the International Seabed Authority upon the exchange of letters between the Secretary-General of the United Nations and the President of the Court, the President of the International Tribunal and the Secretary-General of the Seabed Authority, respectively, establishing the relevant conditions.	This provision would state that: The United Nations Appeals Tribunal would retain administrative jurisdiction in relation to the United Nations Joint Staff Pension Fund, and bodies that have accepted the jurisdiction of the Tribunal pursuant to article 14 of the United Nations Administrative Tribunal statute. In this regard, consultations would be held with those organizations, with a view to amending the United Nations Administrative Tribunal statute, to expand its scope, to enable the Tribunal to grant the appropriate relief and to bring it into harmony with the statute of the Administrative Tribunal of the International Labour Organization. (See A/61/758, para. 35.)

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
2. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of the regulations of the United Nations Joint Staff Pension Fund arising out of the decision of the United Nations Joint Staff Pension Board submitted to the Tribunal by: (a) Any staff member of a member organization of the Pension Fund which has accepted the jurisdiction of the Tribunal in Pension Fund cases who is eligible under article 21 of the regulations of the Fund as a participant in the Fund, even if his or her employment has ceased, and any person who has acceded to such staff member's rights upon his or her death; (b) Any other person who can show that he or she is entitled to rights under the regulations of the Pension Fund by virtue of the participation in the Fund of a staff member of such member organization.	See comment above on article 14, paragraph 1.
3. The competence of the Tribunal may be extended to any specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. Each such special agreement shall provide that the agency concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that agency and shall include, inter alia, provisions concerning the agency's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.	See comment above on article 14, paragraph 1.

Statute of the United Nations Administrative Tribunal	*Draft elements of the statute of the United Nations Appeals Tribunal (acting in its appellate capacity)*
4. The competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that organization or entity and shall include, inter alia, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.	See comment above on article 14, paragraph 1. It is proposed that a provision reflecting paragraph 4 of article 14 of the United Nations Administrative Tribunal statute be included in the statute of the Appeals Tribunal.

Annex V

Draft elements of the rules of the United Nations Dispute Tribunal

The statute of the Dispute Tribunal would stipulate that the Tribunal should adopt its own rules of procedure. Therefore, the proposal set out below is presented for the General Assembly's information and comments, and as an example of the proposed elements of the draft rules of the Dispute Tribunal that could be considered by the Tribunal.

The draft elements of the rules of the Dispute Tribunal, set out in the right-hand column below, take into close consideration the rules of the United Nations Administrative Tribunal, set out in the left-hand column. The draft elements also reflect certain points that have no corresponding provision in the United Nations Administrative Tribunal rules. The rules to be adopted by the Dispute Tribunal should be specific to the United Nations system, taking into account the experience gained from the past implementation of the United Nations Administrative Tribunal rules and new technological advances.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
Article 1	**Element 1: term of office**
Subject to any contrary decision of the General Assembly of the United Nations, the term of office of members of the Tribunal shall commence on the first day of January in the year following their appointment by the General Assembly.	This provision would set out the terms of office of the judges of the Dispute Tribunal.
Article 2	**Element 2: Bureau**
1. At its plenary session each year, the Tribunal shall elect a President, a first Vice-President and a second Vice-President for one year. The President and Vice-Presidents thus elected shall take up their duties forthwith. They may be re-elected.	This provision would set out issues pertaining to the presiding judges of each Dispute Tribunal panel and the presidency (elections, rotation, tenure, and role), bearing in mind the proposed structure of the Dispute Tribunal, by which it would consist of nine judges sitting in panels of three when cases were being considered on the merits.
2. The retiring President and Vice-Presidents shall remain in office until their successors are elected.	See comment above on article 2, paragraph 1.
3. If the President (or a Vice-President) should cease to be a member of the Tribunal or should resign the office of President (or Vice-President) before the expiration of his normal term, an election shall be held for the purpose of appointing a successor for the unexpired portion of the term. In the case of a vacancy of the Vice-President, the President may arrange for the election of a successor by correspondence.	See comment above on article 2, paragraph 1.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
4. The elections shall be made by a majority vote.	See comment on article 2, paragraph 1.
Article 3	**Element 3: President**
1. The President shall direct the work of the Tribunal and of its secretariat; he or she shall represent the Tribunal in all administrative matters; he or she shall preside at the meetings of the Tribunal.	This provision would address the role and functions of the President and Vice-Presidents of the Dispute Tribunal.
2. If the President is unable to act, he or she shall designate one of the Vice-Presidents to act as President. In the absence of any such designation by the President, the first Vice-President or, in the event of the latter's incapacity, the second Vice-President shall act as President.	See comment above on article 3, paragraph 1.
3. No case shall be heard by the Tribunal except under the chairmanship of the President or one of the Vice-Presidents.	See comment above on article 3, paragraph 1. **New provision** The Dispute Tribunal may wish to consider including provisions concerning the disqualification or recusal of judges.
Article 4	**Element 4: Registry (and its functions)**
1. The Tribunal shall have an Executive Secretary and other staff placed at its disposal by the Secretary-General of the United Nations.	This provision will set out the administrative arrangements for the Dispute Tribunal and the functions of the Registries: the Dispute Tribunal's Registry would be headed by a principal registrar, and the Registries in New York, Geneva and Nairobi would be each headed by a registrar (see paras. 129-143 above and A/61/758, para. 20).
2. The Executive Secretary, if unable to act, shall be replaced by an official appointed by the Secretary-General.	It appears that the substance of current article 4, paragraph 2, could be incorporated into the Dispute Tribunal's Rules without substantive revision.
Article 5	**Element 5: sessions**
1. The Tribunal shall hold a plenary session once a year (normally during the last quarter of the year), for the purpose of election of officers and any other matters affecting the administration or operation of the Tribunal. When, however, there are no cases on the list which in the opinion of the President would justify the holding of a session for their consideration, the President may, after consulting the other members of the Tribunal, decide to postpone the plenary session to a later date.	Pursuant to the corresponding article of the statute of the Dispute Tribunal, this provision would set out the purpose, frequency and location of plenary sessions and issues regarding travel of judges to hold sessions outside New York, Geneva and Nairobi, as necessary (e.g., in Bangkok and Santiago).

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
2. A special plenary session may be convened by the President when, in his or her opinion, it is necessary to deal with a question affecting the administration or operation of the Tribunal. Notice of the convening of a special plenary session shall be given to the members of the Tribunal at least thirty days in advance of the date of the opening of such a session.	Special plenary sessions would not be necessary, as the Dispute Tribunal would function on a full-time basis. Moreover, in view of technological advancement and the characteristics of the Dispute Tribunal, it does not seem necessary to convene a session in person for the sole purpose of discussing the administration and operation of the Tribunal.
3. Four members of the Tribunal shall constitute a quorum for plenary sessions.	A provision concerning a quorum should be included in the rules.
4. The plenary sessions of the Tribunal shall be held at the Headquarters of the United Nations, except that the President may, if circumstances require, fix a different place after consultation with the Executive Secretary.	A provision concerning plenary sessions should be included in the rules, taking into account that the Dispute Tribunal would have three Registries, and concerning travel to other duty stations as necessary.
Article 6	**Element 6: panels and sessions**
1. The President shall designate the three members of the Tribunal who, in accordance with article 3 of the Statute, shall constitute the Tribunal for the purpose of sitting in each particular case or group of cases. The President may, in addition, designate one or more members of the Tribunal to serve as alternates.	This provision would address the issue of Dispute Tribunal panels and sessions, reflecting the Tribunal's full-time status and the fact that it has its own Registry. The issue concerning cases that may be examined by one judge (e.g., the issue of receivability and requests for interim orders) could also be addressed in this provision.
2. In conformity with article 4 of the Statute, the Tribunal shall hold ordinary sessions for the purpose of considering cases. An ordinary session of the Tribunal shall be held each year during the period of the plenary session and in the second quarter of the year. Ordinary sessions shall only be held subject to there being cases on the list which by their number or urgency justify, in the opinion of the President, the holding of the session. The decision of the President with respect to the opening of the ordinary sessions shall be communicated to the members of the Tribunal at least thirty days before the convening thereof.	See comment above on article 6, paragraph 1.
3. Extraordinary sessions for the consideration of cases may be convened by the President when, in his or her opinion, the number or urgency of the cases on the list requires such sessions. Notice of the convening of an extraordinary session shall be given to the members of the Tribunal at least fifteen days in advance of the date of the opening of such sessions.	A provision concerning extraordinary sessions does not seem necessary, in view of the Dispute Tribunal's full-time status. See also comment above on article 5, paragraph 2.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
4. Ordinary and extraordinary sessions of the Tribunal shall be convened at dates and places to be set by the President after consultation with the Executive Secretary.	See comment above on article 6, paragraph 1. Reference to extraordinary sessions would not be necessary in view of the Dispute Tribunal's full-time status.
5. The Executive Secretary shall send to the members of the Tribunal, designated by the President in accordance with paragraph 1 of this article, the dossiers and other documentation relating to the cases referred to them.	It appears that the substance of the current article 6 paragraph 5, could be incorporated into the Dispute Tribunal's rules without substantive revision.
Article 7	**Element 7: appeals**
1. Applications instituting proceedings shall be submitted to the Tribunal through the Executive Secretary in any one of the official languages of the United Nations. Such applications shall be divided into four sections, which shall be entitled respectively: I. Information concerning the personal and official status of the applicant; II. Pleas; III. Explanatory statement; IV. Annexes.	This provision will set out the rules concerning appeals, reflecting the process to file an appeal to the Dispute Tribunal (e.g., the number of copies to be submitted by each party), and the proposed 30-day time limit (with a reference to the statute of the Dispute Tribunal). A template format could be created and maintained on the Dispute Tribunal website and attached to the rules. This provision will also set out the required information (content of the appeal), format and authentication to be supplied by an appellant, and number of copies of each document to be submitted, required documentation and page limitations. Content of the appeal could be: name of the appellant; identification, description and date of the administrative decision; date of submission of request for management evaluation; date of response to the request for management evaluation and a summary of the response; statement of facts; explanatory statement; legal arguments; remedy sought; name of counsel, if any; request for oral hearing, if desired; signature; and date of submission.
2. The information concerning the personal and official status of the applicant shall be presented in the form contained in annex I to these rules.	See comment above on article 7, paragraph 1.
3. The pleas shall indicate all the measures and decisions which the applicant is requesting the Tribunal to order or take. They shall specify: (a) Any preliminary or provisional measures, such as the production of additional documents or the hearing of witnesses, which the applicant is requesting the Tribunal to order before proceeding to consider the merits;	See comment above on article 7, paragraph 1.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
(b) The decisions which the applicant is contesting and whose rescission he is requesting under article 9, paragraph 1, of the Statute;	
(c) The obligations which the applicant is invoking and whose specific performance he is requesting under article 9, paragraph 1, of the Statute;	
(d) The amount of compensation claimed by the applicant in the event that the Secretary-General decides, in the interest of the United Nations, to pay compensation for the injury sustained in accordance with the option given to him under article 9, paragraph 1, of the Statute;	
(e) And any other relief which the applicant may request in accordance with the Statute.	
4. The explanatory statement shall set out the facts and the legal grounds on which the pleas are based. It shall specify, inter alia, the provisions of the contract of employment or of the terms of appointment whose non-observance is alleged.	See comment above on article 7, paragraph 1. The explanatory statement would set out the facts and the legal grounds on which the pleas are based, reflecting the grounds for appeal to the Dispute Tribunal.
5. The annexes shall contain the texts of all documents referred to in the first three sections of the application. They shall be presented by the applicant in accordance with the following rules:	See comment above on article 7, paragraph 1.
(a) Each document shall be annexed in the original or, failing that, in the form of a copy bearing the words "Certified true copy";	
(b) Documents which are not in any of the official languages of the United Nations shall be accompanied by a translation into one of the working languages of the United Nations General Assembly;	
(c) Each document, regardless of its nature, shall be annexed in its entirety, even if the application refers to only part of the document;	
(d) Each document shall constitute a separate annex and shall be numbered with an Arabic numeral. The word "ANNEX", followed by the number of the document, shall appear at the top of the first page;	
(e) The last annexed document shall be followed by a table of contents indicating the number, title, nature, date and, where appropriate, symbol of each annex;	

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
(f) The words "see annex", followed by the appropriate number, shall appear in parentheses after each reference to an annexed document in the other sections of the application.	
6. The applicant shall prepare seven copies of the application. Each copy shall contain a statement certifying that it is a true copy of the original application. It shall reproduce all sections of the original, including the annexes. However, the Executive Secretary may grant the applicant permission, at his or her request, to omit the text of an annex of unusual length from a specified number of copies of the application.	See comment above on article 7, paragraph 1.
7. The applicant shall sign the last page of the original application and, in the annexes thereto, each certification made in accordance with paragraph 5 (a) above. He or she shall also sign, on each copy of the application, the statement referred to in paragraph 6 above. In the event of the applicant's incapacity, the required signatures shall be furnished by his legal representative. The applicant may also, by means of a letter transmitted for that purpose to the Executive Secretary, authorize his or her counsel or the staff member who is representing him to sign in his or her stead.	See comment above on article 7, paragraph 1.
8. The applicant shall file the duly signed original and seven copies of the application with the Executive Secretary. Where the Secretary-General and the applicant have agreed to submit the application directly to the Tribunal in accordance with the option given to them under article 7, paragraph 1, of the Statute, the filing shall take place within ninety days of the date on which the Secretary-General notifies the applicant of his agreement to direct submission. In all other cases, the filing shall take place within the time limits prescribed by article 7, paragraph 4, of the Statute and by article 22 of these rules.	See comment above on article 7, paragraph 1.
9. The time limits specified in the preceding paragraph shall be extended to one year in the case of an application filed by:	See comment above on article 7, paragraph 1.
(a) Any person who has succeeded to the staff member's rights on his death; or	
(b) The legal representative of a staff member who is not in a position to manage his own affairs.	

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
10. If the formal requirements of this article are not fulfilled, the Executive Secretary may call upon the applicant to make the necessary corrections in the application and the copies thereof within a period which he shall prescribe. He or she shall return the necessary papers to the applicant for this purpose. He or she may also, with the approval of the President, make the necessary corrections him or herself when the defects in the application do not affect the substance.	See comment above on article 7, paragraph 1.
11. After ascertaining that the requirements of this article are complied with, the Executive Secretary shall transmit a copy of the application to the respondent.	See comment above on article 7, paragraph 1.
Article 8	**Element 8: respondent's answer**
1. The respondent's answer shall be submitted to the Tribunal through the Executive Secretary in any one of the working languages of the United Nations General Assembly. The answer shall include pleas, an explanatory statement and annexes. The annexes shall contain the complete texts of all documents referred to in the other sections of the answer. They shall be presented in accordance with the rules established for the application in article 7, paragraph 5. The number given to the first annex of the answer shall be the number following that given to the last annex of the application.	This provision would address details regarding the respondent's answer, such as the transmission by the Registry of the answer to the appellant; number of copies required; the requirements as to time limits; format; information and authentication to be supplied by the respondent; number of copies required; and annexes.
2. The respondent shall prepare seven copies of the answer. Each copy shall contain a statement certifying that it is a true copy of the original answer. It shall reproduce all sections of the original, including the annexes. However, the Executive Secretary may grant the respondent permission, at his request, to omit the text of an annex of unusual length from a specified number of copies of the answer.	See comment above on article 8, paragraph 1.
3. The representative of the respondent shall sign the last page of the original answer and, in the annexes thereto, each certification made in accordance with article 7, paragraph 5 (a). He or she shall also sign, on each copy of the answer, the statement referred to in paragraph 2 above.	See comment above on article 8, paragraph 1.
4. Within ninety days of the date on which the application is transmitted to him or her by the Executive Secretary, the respondent shall file the duly signed original and seven copies of the answer with the Executive Secretary.	See comment above on article 8, paragraph 1.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
5. After ascertaining that the requirements of this article are complied with, the Executive Secretary shall transmit a copy of the answer to the applicant.	See comment above on article 8, paragraph 1.
Article 9	**Element 9: rejoinder and surrejoinder**
1. The applicant may, within thirty days of the date on which the answer is transmitted to him or her, file with the Executive Secretary written observations on the answer.	This provision would set out the issue of subsequent submissions after the initial pleading and the respondent's answer, and the procedure for filing subsequent submissions. The Redesign Panel has proposed that each party may file only one subsequent submission after the initial pleading and the answer (A/61/205, para. 95).
2. The complete text of any document referred to in the written observations shall be annexed thereto in accordance with the rules established for the application in article 7, paragraph 5. The number given to the first annex of the written observations shall be the number following that given to the last annex of the answer.	See comment above on article 9, paragraph 1.
3. The written observations shall be filed in an original and seven copies drawn up in accordance with the rules established for the application in article 7, paragraph 6. The original and the seven copies shall be signed in accordance with the rules established for the application in article 7, paragraph 7.	See comment above on article 9, paragraph 1.
4. After ascertaining that the requirements of this article are complied with, the Executive Secretary shall transmit a copy of the written observations to the respondent.	See comment above on article 9, paragraph 1.
Article 10	**Element 10: additional information**
1. The President may, on his or her own initiative, or at the request of either party, call upon the parties to submit additional written statements or additional documents within a period which he shall fix. The additional documents shall be furnished in the original or in properly authenticated form. The written statements and additional documents shall be accompanied by seven properly authenticated copies. Any document not drawn up in any of the official languages of the United Nations shall be accompanied by a certified translation into one of the working languages of the General Assembly.	It appears that the substance of article 10 could be incorporated into the Dispute Tribunal's rules without substantive revision. In so doing, the substance of article 23 of the rules of the Administrative Tribunal may be consolidated.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
2. Each written statement and additional document shall be communicated by the Executive Secretary, on receipt, to the other parties, unless at the request of one of the parties and with the consent of the other parties, the Tribunal decides otherwise. The personnel files communicated to the Tribunal shall be made available to the applicant by the Executive Secretary in accordance with instructions issued by the Tribunal.	See comment above on article 10, paragraph 1.
3. In order to complete the documentation of the case prior to its being placed on the list, the President may obtain any necessary information from any party, witnesses or experts. The President may designate a member of the Tribunal or any other disinterested person to take oral statements. Any such statement shall be made under declaration as provided in article 16, paragraph 2.	See comment above on article 10, paragraph 1.
4. The President may in particular cases delegate his functions under this article to one of the Vice-Presidents.	See comment above on article 10, paragraph 1.
Article 11	**Element 11: docket**
1. When the President considers the documentation of a case to be sufficiently complete, he or she shall instruct the Executive Secretary to place the case on the list. The Executive Secretary shall inform the parties as soon as the inclusion of the case in the list is effected.	It appears that the substance of article 11 could be incorporated into the Dispute Tribunal's rules without substantive revision.
2. As soon as the date of opening of the session at which a case has been entered for hearing has been fixed, the Executive Secretary shall notify the date to the parties.	See comment above on article 11, paragraph 1.
3. Any application for the adjournment of a case shall be decided by the President, or, when the Tribunal is in session, by the Tribunal.	See comment above on article 11, paragraph 1.
Article 12	**Element 12: transmission of documents**
1. The Executive Secretary shall be responsible for transmitting all documents and making all notifications required in connection with proceedings before the Tribunal.	It appears that the substance of article 12 could be incorporated into the Dispute Tribunal's rules without substantive revision.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
2. The Executive Secretary shall make for each case a dossier which shall record all actions taken in connection with the preparation of the case for trial, the dates thereof, and the dates on which any document or notification forming part of the procedure is received in or dispatched from his office.	See comment above on article 12, paragraph 1.
Article 13 An applicant may present his case before the Tribunal in person, in either the written or oral proceedings. Subject to article 7 of these rules, he or she may designate a staff member of the United Nations or one of the specialized agencies so to represent him, or may be represented by counsel authorized to practice in any country a member of the organization concerned. The President or, when the Tribunal is in session, the Tribunal may permit an applicant to be represented by a retired staff member of the United Nations or one of the specialized agencies.	**Element 13: proceedings** It appears that the substance of article 13 could be incorporated into the Dispute Tribunal's rules without substantive revision. See also element 15 below. **New provisions** Pursuant to the proposed statute of the Dispute Tribunal, this provision would set out the procedure for referral of cases by judges to mediation. The Dispute Tribunal may wish to consider including provisions concerning evidence.
Article 14 The President may, when a party claims that he or she is unable to comply with the requirements of any rule in this chapter, waive such rule if the waiver does not affect the substance of the application.	**Element 14: waiver** It appears that the substance of article 14 could be incorporated into the Dispute Tribunal's rules without substantive revision.
Article 15 1. Oral proceedings shall be held if the presiding member so decides or if either party so requests and the presiding member agrees. The oral proceedings may include the presentation and examination of witnesses or experts. Each party shall in addition have the right of oral argument and of comment on the evidence given.	**Element 15: oral proceedings** This provision would address the issue of oral proceedings, reflecting the provision of the statute concerning oral hearings (to be approved by the General Assembly), which envisages that proceedings will be open to the public in principle but that the Dispute Tribunal may order closed hearings, at its initiative or at the request of one of the parties, and taking into account the travel of judges (see element 2 above).

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
2. In sufficient time before the opening of the oral proceedings, each party shall inform the Executive Secretary and, through him or her, the other parties, of the names and description of witnesses and experts whom he desires to be heard, indicating the points to which the evidence is to refer.	See comment above on article 15, paragraph 1.
3. The Tribunal shall determine the sequence of oral proceedings. The parties shall, however, retain the right to comment briefly on any statement to which they have not replied.	See comment above on article 15, paragraph 1.
Article 16	**Element 16: testimony of witnesses and experts**
1. The Tribunal may examine the witnesses and experts. The parties, their representatives or counsel may, under the control of the presiding member, put questions to the witnesses and experts.	It appears that the substance of article 16 could be incorporated into the Dispute Tribunal's rules without substantive revision.
2. Each witness shall make the following declaration before giving his evidence: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth". Each expert shall make the following declaration before making his statement: "I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere belief".	See comments above on article 16, paragraph 1, and on article 15.
3. The Tribunal may exclude evidence which it considers irrelevant, frivolous, or lacking in probative value. The Tribunal may also limit the oral testimony where it considers the written documentation adequate.	See comment above on article 16, paragraph 1.
Article 17	**Element 17: inquiry**
The Tribunal may at any stage of the proceedings call for the production of documents or of such other evidence as may be required. It may arrange for any measures of inquiry as may be necessary.	It appears that the substance of article 17 could be incorporated into the Dispute Tribunal's rules without substantive revision.
Article 18	**Element 18: remand**
1. If, in the course of the deliberations, the Tribunal finds that the case be remanded in order that the required procedure may be instituted or corrected under article 10, paragraph 2, of the Statute, it shall notify the parties accordingly.	A provision on remand does not seem necessary, as there would be no remand at the Dispute Tribunal stage.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
2. The Tribunal shall decide on the substance of the case if, on the expiry of the time limit of two days reckoned from the date of this notification, no request for a remand has been made by the Secretary-General.	See comment above on article 18, paragraph 1.
Article 19	**Element 19: intervention (1) — eligibility**
1. Any person to whom the Tribunal is open under article 2, paragraph 2, and article 14 of the Statute may apply to intervene in a case at any stage thereof on the ground that he or she has a right which may be affected by the judgement to be given by the Tribunal. He or she shall for that purpose draw up and file an application in form of annex II for intervention in accordance with the conditions laid down in this article.	It appears that the substance of article 19 could be incorporated into the Dispute Tribunal's rules without substantive revision.
2. The rules regarding the preparation and submission of applications specified in chapter III shall apply mutatis mutandis to the application for intervention.	See comment above on article 19, paragraph 1.
3. After ascertaining that the requirements of the present article are complied with, the Executive Secretary shall transmit a copy of the application for intervention to the applicant and to the respondent. The President shall decide which documents, if any, relating to the proceedings are to be transmitted to the intervener by the Executive Secretary.	See comment above on article 19, paragraph 1.
4. The Tribunal shall rule on the admissibility of every application for intervention submitted under this article.	See comment above on article 19, paragraph 1. This provision could also state that the issue of receivability may be ruled on by one judge.
Article 20	**Element 20: intervention (2) — by the Secretary-General or executive heads of the United Nations funds and programmes**
1. The Secretary-General of the United Nations, the chief administrative officer of a specialized agency to which the competence of the Tribunal has been extended in accordance with the Statute, or the Chairman of the Joint Staff Pension Board, may, on giving previous notice to the President of the Tribunal, intervene at any stage, if they consider that their respective administrations may be affected by the judgement to be given by the Tribunal.	This provision would address the issue of intervention by the Secretary-General or the executive heads of the United Nations funds and programmes. Reference to the Joint Staff Pension Board and other organizations would not be necessary, unless they decided to be subject to the jurisdiction of the Dispute Tribunal.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
2. If, in any proceeding, it appears that the judgement of the Tribunal may affect a rule, decision or scale of emoluments or contributions of the common system of a staff administration, the Executive Secretary of the Tribunal shall promptly inform the Executive Secretary of the International Civil Service Commission and enquire whether the Commission wishes to participate in the proceeding. If the Commission indicates its wish to do so, it shall be provided with copies of all the pleadings and shall be permitted to comment thereon, and also to participate in any oral proceedings.	See comment above on article 20, paragraph 1.
Article 21 When it appears that a person may have an interest to intervene in a case under articles 19 or 20, the President, or the Tribunal when in session, may instruct the Executive Secretary to transmit to such person a copy of the application submitted in the case.	**Element 21: intervention (3) — interested party** It appears that the substance of article 21 could be incorporated into the Dispute Tribunal's rules without substantive revision.
Article 22 Where an application is brought against a decision of the United Nations Joint Staff Pension Board or of the Staff Pension Committee of a member organization, the time limits prescribed in article 7 of the Statute are reckoned from the date of the communication of the contested decision to the party concerned.	**Element 22: time limits for pension cases** A provision concerning time limits for pension cases would not be necessary, as the Pension Fund would use the Appeals Tribunal as an administrative tribunal and would not use the Dispute Tribunal, unless it decided to be subject to the jurisdiction of the Dispute Tribunal.
Article 23 1. The Tribunal may grant a hearing, for purposes of information, to persons to whom the Tribunal is open under paragraph 2 of article 2 of the Statute even though they are not parties to the case, whenever such persons may be expected to furnish information pertinent to the case.	**Element 23: information hearings** It appears that the substance of article 23 could be incorporated into a provision in the Dispute Tribunal's rules, that would reflect the substance of article 15 of the rules of the Administrative Tribunal.
2. The Tribunal may, in its discretion, grant a hearing to duly authorized representatives of the staff association of the organization concerned.	See comment above on article 23, paragraph 1.
Article 24 The Tribunal or, in the interval between its sessions, the President or the presiding member may shorten or extend any time limit fixed by these rules.	**Element 24: time limits** It appears that the substance of article 24 could be incorporated into the Dispute Tribunal's rules without substantive revision.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Dispute Tribunal*
Article 25 The Executive Secretary shall send twice a year to all members of the Tribunal copies of all the decisions of the Tribunal during the preceding period.	**Element 25: dissemination of judgements to judges** This provision would address the issue of the sharing and distribution of Dispute Tribunal judgements among the judges, taking into account the Dispute Tribunal's full-time status. A rule could be included stating that the judges of the Tribunal in New York, Geneva and Nairobi would receive each other's judgements to promote consistency.
Article 26 All matters which are not expressly provided for in the present rules shall be dealt with by decision of the Tribunal upon the particular case, by virtue of the powers conferred on it by article 6 of the Statute.	**Element 26: other matters** It appears that the substance of article 26 could be incorporated into the Dispute Tribunal's rules without substantive revision.

Annex VI

Draft elements of the rules of the United Nations Appeals Tribunal

The statute of the Appeals Tribunal would stipulate that the Tribunal would adopt its own rules. Therefore, the proposal set out below is presented for the General Assembly's information and comments, and as an example of the draft elements of rules of the Appeals Tribunal that could be considered by the Tribunal.

The rules to be adopted by the Appeals Tribunal, as they should be specific to the United Nations system, could be based on the rules of the United Nations Administrative Tribunal, although the latter should be streamlined and improved on the basis of past experience and new technological advances. The rules will have to reflect, where appropriate, that the new Appeals Tribunal will continue to act as an administrative tribunal for the United Nations Joint Staff Pension Fund and organizations that have accepted the jurisdiction of the United Nations Administrative Tribunal pursuant to article 14 of its statute.

The rules of the United Nations Administrative Tribunal are set out in the left-hand column below and the proposals for the draft elements of the rules of the Appeals Tribunal are in the right-hand column.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
Article 1	**Article 1: term of office**
Subject to any contrary decision of the General Assembly of the United Nations, the term of office of members of the Tribunal shall commence on the first day of January in the year following their appointment by the General Assembly.	No substantive revision seems necessary. Note that in this article, as throughout the document, the term "member" will be replaced with "judge".
Article 2	**Article 2: Bureau**
1. At its plenary session each year, the Tribunal shall elect a President, a first Vice-President and a second Vice-President for one year. The President and Vice-Presidents thus elected shall take up their duties forthwith. They may be re-elected.	No substantive revision seems necessary. However, the Tribunal may wish to decide on its own Bureau-selection process.
2. The retiring President and Vice-Presidents shall remain in office until their successors are elected.	No substantive revision seems necessary, but see comment above on article 2, paragraph 1.
3. If the President (or a Vice-President) should cease to be a member of the Tribunal or should resign the office of President (or Vice-President) before the expiration of his normal term, an election shall be held for the purpose of appointing a successor for the unexpired portion of the term. In the case of a vacancy of the Vice-President, the President may arrange for the election of a successor by correspondence.	No substantive revision seems necessary, but see comment above on article 2, paragraph 1.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
4. The elections shall be made by a majority vote.	No substantive revision seems necessary, but see comment above on article 2, paragraph 1.
Article 3	**Article 3: President**
1. The President shall direct the work of the Tribunal and of its secretariat; he or she shall represent the Tribunal in all administrative matters; he or she shall preside at the meetings of the Tribunal.	No substantive revision seems necessary.
2. If the President is unable to act, he or she shall designate one of the Vice-Presidents to act as President. In the absence of any such designation by the President, the first Vice-President or, in the event of the latter's incapacity, the second Vice-President shall act as President.	No substantive revision seems necessary.
3. No case shall be heard by the Tribunal except under the chairmanship of the President or one of the Vice-Presidents.	No substantive revision seems necessary.
	New provision The Appeals Tribunal may wish to consider including provisions concerning the disqualification or recusal of judges.
Article 4	**Article 4: Registry (and its functions)**
1. The Tribunal shall have an Executive Secretary and other staff placed at its disposal by the Secretary-General of the United Nations.	This provision will require revision to reflect the new administrative arrangements, i.e., the Registry, headed by a Registrar (see proposals made by the Secretary-General in this regard, setting out, inter alia, the functions of the Registrar).
2. The Executive Secretary, if unable to act, shall be replaced by an official appointed by the Secretary-General.	No substantive revision seems necessary, apart from terminology.
Article 5	**Article 5: sessions**
1. The Tribunal shall hold a plenary session once a year (normally during the last quarter of the year), for the purpose of election of officers and any other matters affecting the administration or operation of the Tribunal. When, however, there are no cases on the list which in the opinion of the President would justify the holding of a session for their consideration, the President may, after consulting the other members of the Tribunal, decide to postpone the plenary session to a later date.	No substantive revision seems necessary. It is envisaged that the new Tribunal will continue to hold sessions in New York and Geneva. Currently, the Tribunal does not hold a separate plenary session, but elects its officers at a plenary meeting held during the fall session.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
2. A special plenary session may be convened by the President when, in his or her opinion, it is necessary to deal with a question affecting the administration or operation of the Tribunal. Notice of the convening of a special plenary session shall be given to the members of the Tribunal at least thirty days in advance of the date of the opening of such a session.	In view of technological advancements, it no longer seems necessary in all cases to convene such a special plenary session in person.
3. Four members of the Tribunal shall constitute a quorum for plenary sessions.	No substantive revision seems necessary.
4. The plenary sessions of the Tribunal shall be held at the Headquarters of the United Nations, except that the President may, if circumstances require, fix a different place after consultation with the Executive Secretary.	See comment above on article 5, paragraph 1.
Article 6	**Article 6: panels and sessions**
1. The President shall designate the three members of the Tribunal who, in accordance with article 3 of the Statute, shall constitute the Tribunal for the purpose of sitting in each particular case or group of cases. The President may, in addition, designate one or more members of the Tribunal to serve as alternates.	This provision will require revision to address the issue of cases that may be examined by one judge (e.g., matters of receivability and requests for interim orders); a panel of three judges will continue to be convened to consider cases on their merits. In this regard, it may be noted that in the International Labour Organization Administrative Tribunal, the President sits in all cases to ensure consistency of jurisprudence (see A/61/205, paras. 69 and 72).
2. In conformity with article 4 of the Statute, the Tribunal shall hold ordinary sessions for the purpose of considering cases. An ordinary session of the Tribunal shall be held each year during the period of the plenary session and in the second quarter of the year. Ordinary sessions shall only be held subject to there being cases on the list which by their number or urgency justify, in the opinion of the President, the holding of the session. The decision of the President with respect to the opening of the ordinary sessions shall be communicated to the members of the Tribunal at least thirty days before the convening thereof.	No substantive revision seems necessary. See also comment above on article 6, paragraph 1.
3. Extraordinary sessions for the consideration of cases may be convened by the President when, in his or her opinion, the number or urgency of the cases on the list requires such sessions. Notice of the convening of an extraordinary session shall be given to the members of the Tribunal at least fifteen days in advance of the date of the opening of such sessions.	See comments above on article 6, paragraphs 1 and 2. In the current practice of the United Nations Administrative Tribunal, extraordinary sessions are rarely held, primarily because of a lack of funding. There is at present no item in the Administrative Tribunal budget to cover such sessions. Such an item could be added in future budgets of the Appeals Tribunal, or a provision could be included stating that

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
	the cost of holding extraordinary sessions will be covered by the regular budget of the Office of Administration of Justice, or simply by the Organization.
4. Ordinary and extraordinary sessions of the Tribunal shall be convened at dates and places to be set by the President after consultation with the Executive Secretary.	See comments above on article 6, paragraphs 1 to 3.
5. The Executive Secretary shall send to the members of the Tribunal, designated by the President in accordance with paragraph 1 of this article, the dossiers and other documentation relating to the cases referred to them.	No substantive revision seems necessary.
Article 7	**Article 7: applications**
1. Applications instituting proceedings shall be submitted to the Tribunal through the Executive Secretary in any one of the official languages of the United Nations. Such applications shall be divided into four sections, which shall be entitled respectively: I. Information concerning the personal and official status of the applicant; II. Pleas; III. Explanatory statement; IV. Annexes.	Substantial modification of this article, as well as of article 8, would be required in order to reflect the revised process for filing an appeal (e.g., the number of documents to be submitted by each party) as well as the revised time limits. It is envisaged that a standard template would be created and maintained on the website of the Appeals Tribunal and attached to the rules. This article should also provide that either party will be able to appeal decisions of the Dispute Tribunal to the Appeals Tribunal, reflecting the Statute of the Appeals Tribunal, and that cases may be filed by staff associations in certain instances, if these proposals are approved by the General Assembly. The Tribunal may also wish to revise provisions concerning the issues of joinder and surrejoinder (see comment on article 9, paragraph 1, below).
2. The information concerning the personal and official status of the applicant shall be presented in the form contained in annex I to these rules.	See comment above on article 7, paragraph 1.
3. The pleas shall indicate all the measures and decisions which the applicant is requesting the Tribunal to order or take. They shall specify: (a) Any preliminary or provisional measures, such as the production of additional documents or the hearing of witnesses, which the applicant is requesting the Tribunal to order before proceeding to consider the merits;	See comment above on article 7, paragraph 1.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
(b) The decisions which the applicant is contesting and whose rescission he is requesting under article 9, paragraph 1, of the Statute;	
(c) The obligations which the applicant is invoking and whose specific performance he is requesting under article 9, paragraph 1, of the Statute;	
(d) The amount of compensation claimed by the applicant in the event that the Secretary-General decides, in the interest of the United Nations, to pay compensation for the injury sustained in accordance with the option given to him under article 9, paragraph 1, of the Statute;	
(e) And any other relief which the applicant may request in accordance with the Statute.	
4. The explanatory statement shall set out the facts and the legal grounds on which the pleas are based. It shall specify, inter alia, the provisions of the contract of employment or of the terms of appointment whose non-observance is alleged.	See comment above on article 7, paragraph 1. This paragraph will need revision to reflect the revised grounds for appeal.
5. The annexes shall contain the texts of all documents referred to in the first three sections of the application. They shall be presented by the applicant in accordance with the following rules:	See comment above on article 7, paragraph 1.
(a) Each document shall be annexed in the original or, failing that, in the form of a copy bearing the words "Certified true copy";	
(b) Documents which are not in any of the official languages of the United Nations shall be accompanied by a translation into one of the working languages of the United Nations General Assembly;	
(c) Each document, regardless of its nature, shall be annexed in its entirety, even if the application refers to only part of the document;	
(d) Each document shall constitute a separate annex and shall be numbered with an Arabic numeral. The word "ANNEX", followed by the number of the document, shall appear at the top of the first page;	
(e) The last annexed document shall be followed by a table of contents indicating the number, title, nature, date and, where appropriate, symbol of each annex;	

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
(f) The words "see annex", followed by the appropriate number, shall appear in parentheses after each reference to an annexed document in the other sections of the application.	
6. The applicant shall prepare seven copies of the application. Each copy shall contain a statement certifying that it is a true copy of the original application. It shall reproduce all sections of the original, including the annexes. However, the Executive Secretary may grant the applicant permission, at his or her request, to omit the text of an annex of unusual length from a specified number of copies of the application.	See comment above on article 7, paragraph 1.
7. The applicant shall sign the last page of the original application and, in the annexes thereto, each certification made in accordance with paragraph 5 (a) above. He or she shall also sign, on each copy of the application, the statement referred to in paragraph 6 above. In the event of the applicant's incapacity, the required signatures shall be furnished by his legal representative. The applicant may also, by means of a letter transmitted for that purpose to the Executive Secretary, authorize his or her counsel or the staff member who is representing him to sign in his or her stead.	See comment above on article 7, paragraph 1.
8. The applicant shall file the duly signed original and seven copies of the application with the Executive Secretary. Where the Secretary-General and the applicant have agreed to submit the application directly to the Tribunal in accordance with the option given to them under article 7, paragraph 1, of the Statute, the filing shall take place within ninety days of the date on which the Secretary-General notifies the applicant of his agreement to direct submission. In all other cases, the filing shall take place within the time limits prescribed by article 7, paragraph 4, of the Statute and by article 22 of these rules.	See comment above on article 7, paragraph 1.
9. The time limits specified in the preceding paragraph shall be extended to one year in the case of an application filed by:	See comment above on article 7, paragraph 1.
(a) Any person who has succeeded to the staff member's rights on his death; or	
(b) The legal representative of a staff member who is not in a position to manage his own affairs.	

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
10. If the formal requirements of this article are not fulfilled, the Executive Secretary may call upon the applicant to make the necessary corrections in the application and the copies thereof within a period which he shall prescribe. He or she shall return the necessary papers to the applicant for this purpose. He or she may also, with the approval of the President, make the necessary corrections him or herself when the defects in the application do not affect the substance.	See comment above on article 7, paragraph 1.
11. After ascertaining that the requirements of this article are complied with, the Executive Secretary shall transmit a copy of the application to the respondent.	See comment above on article 7, paragraph 1.
Article 8	**Article 8: respondent's answer**
1. The respondent's answer shall be submitted to the Tribunal through the Executive Secretary in any one of the working languages of the United Nations General Assembly. The answer shall include pleas, an explanatory statement and annexes. The annexes shall contain the complete texts of all documents referred to in the other sections of the answer. They shall be presented in accordance with the rules established for the application in article 7, paragraph 5. The number given to the first annex of the answer shall be the number following that given to the last annex of the application.	This article requires revision to reflect the revised process. See comment above on article 7, paragraph 1.
2. The respondent shall prepare seven copies of the answer. Each copy shall contain a statement certifying that it is a true copy of the original answer. It shall reproduce all sections of the original, including the annexes. However, the Executive Secretary may grant the respondent permission, at his request, to omit the text of an annex of unusual length from a specified number of copies of the answer.	See comment above on article 8, paragraph 1.
3. The representative of the respondent shall sign the last page of the original answer and, in the annexes thereto, each certification made in accordance with article 7, paragraph 5 (a). He or she shall also sign, on each copy of the answer, the statement referred to in paragraph 2 above.	See comment above on article 8, paragraph 1.
4. Within ninety days of the date on which the application is transmitted to him or her by the Executive Secretary, the respondent shall file the duly signed original and seven copies of the answer with the Executive Secretary.	See comment above on article 8, paragraph 1.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
5. After ascertaining that the requirements of this article are complied with, the Executive Secretary shall transmit a copy of the answer to the applicant.	See comment above on article 8, paragraph 1.
Article 9	**Article 9: rejoinder and surrejoinder**
1. The applicant may, within thirty days of the date on which the answer is transmitted to him or her, file with the Executive Secretary written observations on the answer.	This article requires revision to clarify the issue of subsequent submissions after the initial appeal and answer, as well as the procedure for filing such submissions. Under the Redesign Panel's proposal (A/61/205, para. 95), each party may submit only one filing after the initial pleading and the answer. See also comment above on article 7, paragraph 1.
2. The complete text of any document referred to in the written observations shall be annexed thereto in accordance with the rules established for the application in article 7, paragraph 5. The number given to the first annex of the written observations shall be the number following that given to the last annex of the answer.	See comments on article 7, paragraph 1, and on article 8, paragraph 1, above.
3. The written observations shall be filed in an original and seven copies drawn up in accordance with the rules established for the application in article 7, paragraph 6. The original and the seven copies shall be signed in accordance with the rules established for the application in article 7, paragraph 7.	See comments on article 7, paragraph 1, and on article 8, paragraph 1, above.
4. After ascertaining that the requirements of this article are complied with, the Executive Secretary shall transmit a copy of the written observations to the respondent.	See comments above on article 7, paragraph 1, and article 8, paragraph 1.
Article 10	**Article 10: additional information**
1. The President may, on his or her own initiative, or at the request of either party, call upon the parties to submit additional written statements or additional documents within a period which he shall fix. The additional documents shall be furnished in the original or in properly authenticated form. The written statements and additional documents shall be accompanied by seven properly authenticated copies. Any document not drawn up in any of the official languages of the United Nations shall be accompanied by a certified translation into one of the working languages of the General Assembly.	No substantive revision seems necessary. However, this provision and article 23 of the rules of the Administrative Tribunal may be consolidated. See also comment above on article 7, paragraph 1.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
2. Each written statement and additional document shall be communicated by the Executive Secretary, on receipt, to the other parties, unless at the request of one of the parties and with the consent of the other parties, the Tribunal decides otherwise. The personnel files communicated to the Tribunal shall be made available to the applicant by the Executive Secretary in accordance with instructions issued by the Tribunal.	No substantive revision seems necessary. However, this provision and article 23 of the rules of the Administrative Tribunal may be consolidated. See also comment above on article 7, paragraph 1.
3. In order to complete the documentation of the case prior to its being placed on the list, the President may obtain any necessary information from any party, witnesses or experts. The President may designate a member of the Tribunal or any other disinterested person to take oral statements. Any such statement shall be made under declaration as provided in article 16, paragraph 2.	No substantive revision seems necessary. However, this provision and article 23 of the rules of the Administrative Tribunal may be consolidated. See also comment above on article 7, paragraph 1.
4. The President may in particular cases delegate his functions under this article to one of the Vice-Presidents.	No substantive revision seems necessary. However, this provision and article 23 of the rules of the Administrative Tribunal may be consolidated. See also comment above on article 7, paragraph 1.
Article 11	**Article 11: docket**
1. When the President considers the documentation of a case to be sufficiently complete, he or she shall instruct the Executive Secretary to place the case on the list. The Executive Secretary shall inform the parties as soon as the inclusion of the case in the list is effected.	No substantive revision seems necessary.
2. As soon as the date of opening of the session at which a case has been entered for hearing has been fixed, the Executive Secretary shall notify the date to the parties.	No substantive revision seems necessary.
3. Any application for the adjournment of a case shall be decided by the President, or, when the Tribunal is in session, by the Tribunal.	No substantive revision seems necessary.
Article 12	**Article 12: transmission of documents**
1. The Executive Secretary shall be responsible for transmitting all documents and making all notifications required in connection with proceedings before the Tribunal.	No substantive revision seems necessary.
2. The Executive Secretary shall make for each case a dossier which shall record all actions taken in connection with the preparation of the case for trial, the dates thereof, and the dates on which any document or	No substantive revision seems necessary.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
notification forming part of the procedure is received in or dispatched from his office.	
Article 13 An applicant may present his case before the Tribunal in person, in either the written or oral proceedings. Subject to article 7 of these rules, he or she may designate a staff member of the United Nations or one of the specialized agencies so as to represent him, or may be represented by counsel authorized to practice in any country a member of the organization concerned. The President or, when the Tribunal is in session, the Tribunal may permit an applicant to be represented by a retired staff member of the United Nations or one of the specialized agencies.	**Article 13: proceedings** No substantive revision seems necessary. However, a new provision will have to be included to cover mediation. See also comment below on article 15.
Article 14 The President may, when a party claims that he or she is unable to comply with the requirements of any rule in this chapter, waive such rule if the waiver does not affect the substance of the application.	**Article 14: waiver** No substantive revision seems necessary.
Article 15 1. Oral proceedings shall be held if the presiding member so decides or if either party so requests and the presiding member agrees. The oral proceedings may include the presentation and examination of witnesses or experts. Each party shall in addition have the right of oral argument and of comment on the evidence given.	**Article 15: oral proceedings** This article requires revision to reflect the provisions of the statute concerning "oral hearings" (to be approved by the General Assembly), which envisage that proceedings will be open to the public in principle but that the Appeals Tribunal may order closed hearings, at its initiative or at the request of one of the parties.
2. In sufficient time before the opening of the oral proceedings, each party shall inform the Executive Secretary and, through him or her, the other parties, of the names and description of witnesses and experts whom he desires to be heard, indicating the points to which the evidence is to refer.	See comment above on article 15, paragraph 1.
3. The Tribunal shall determine the sequence of oral proceedings. The parties shall, however, retain the right to comment briefly on any statement to which they have not replied.	See comment above on article 15, paragraph 1.
Article 16 1. The Tribunal may examine the witnesses and experts. The parties, their representatives or counsel may, under the control of the presiding member, put questions to the witnesses and experts.	**Article 16: testimony of witnesses and experts** No substantive revision seems necessary. See also comments above on article 15.
2. Each witness shall make the following declaration	No substantive revision seems necessary. See also

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
before giving his evidence: "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth." Each expert shall make the following declaration before making his statement: "I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere belief."	comments above on article 15.
3. The Tribunal may exclude evidence which it considers irrelevant, frivolous, or lacking in productive value. The Tribunal may also limit the oral testimony where it considers the written documentation adequate.	No substantive revision seems necessary.
Article 17 The Tribunal may at any stage of the proceedings call for the production of documents or of such other evidence as may be required. It may arrange for any measures of inquiry as may be necessary.	**Article 17: inquiry** No substantive revision seems necessary.
Article 18 1. If, in the course of the deliberations, the Tribunal finds that the case be remanded in order that the required procedure may be instituted or corrected under article 10, paragraph 2, of the Statute, it shall notify the parties accordingly.	**Article 18: remand** This paragraph requires revision to reflect that, for certain bodies, the Appeals Tribunal will continue to act as an administrative tribunal.
2. The Tribunal shall decide on the substance of the case if, on the expiry of the time limit of two days reckoned from the date of this notification, no request for a remand has been made by the Secretary-General.	This paragraph should be deleted. In fact, the Administrative Tribunal decides of its own accord whether to remand a case.
Article 19 1. Any person to whom the Tribunal is open under article 2, paragraph 2, and article 14 of the Statute may apply to intervene in a case at any stage thereof on the ground that he or she has a right which may be affected by the judgement to be given by the Tribunal. He or she shall for that purpose draw up and file an application in form of annex II for intervention in accordance with the conditions laid down in this article.	**Article 19: intervention (1)** No substantive revision seems necessary.
2. The rules regarding the preparation and submission of applications specified in chapter III shall apply mutatis mutandis to the application for intervention.	No substantive revision seems necessary.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
3. After ascertaining that the requirements of the present article are complied with, the Executive Secretary shall transmit a copy of the application for intervention to the applicant and to the respondent. The President shall decide which documents, if any, relating to the proceedings are to be transmitted to the intervener by the Executive Secretary.	No substantive revision seems necessary.
4. The Tribunal shall rule on the admissibility of every application for intervention submitted under this article.	No substantive revision seems necessary. This provision could be clarified to state that the issue of receivability may be ruled on by one judge.
Article 20	**Article 20: intervention (2)**
1. The Secretary-General of the United Nations, the chief administrative officer of a specialized agency to which the competence of the Tribunal has been extended in accordance with the Statute, or the Chairman of the Joint Staff Pension Board, may, on giving previous notice to the President of the Tribunal, intervene at any stage, if they consider that their respective administrations may be affected by the judgement to be given by the Tribunal.	No substantive revision seems necessary.
2. If, in any proceeding, it appears that the judgement of the Tribunal may affect a rule, decision or scale of emoluments or contributions of the common system of a staff administration, the Executive Secretary of the Tribunal shall promptly inform the Executive Secretary of the International Civil Service Commission and enquire whether the Commission wishes to participate in the proceeding. If the Commission indicates its wish to do so, it shall be provided with copies of all the pleadings and shall be permitted to comment thereon, and also to participate in any oral proceedings.	No substantive revision seems necessary.

Rules of the United Nations Administrative Tribunal	*Draft elements of the rules of the United Nations Appeals Tribunal*
Article 21	**Article 21: intervention (3)**
When it appears that a person may have an interest to intervene in a case under articles 19 or 20, the President, or the Tribunal when in session, may instruct the Executive Secretary to transmit to such person a copy of the application submitted in the case.	No substantive revision seems necessary.
Article 22	**Article 22: time limits for pension cases**
Where an application is brought against a decision of the United Nations Joint Staff Pension Board or of the Staff Pension Committee of a member organization, the time limits prescribed in article 7 of the Statute are reckoned from the date of the communication of the contested decision to the party concerned.	No substantive revision seems necessary.
Article 23	**Article 23: information hearings**
1. The Tribunal may grant a hearing, for purposes of information, to persons to whom the Tribunal is open under paragraph 2 of article 2 of the Statute even though they are not parties to the case, whenever such persons may be expected to furnish information pertinent to the case.	This provision seems redundant in the light of article 15 and may be incorporated into articles 15 and 17.
2. The Tribunal may, in its discretion, grant a hearing to duly authorized representatives of the staff association of the organization concerned.	See comment above on article 23, paragraph 1.
Article 24	**Article 24: time limits**
The Tribunal or, in the interval between its sessions, the President or the presiding member may shorten or extend any time limit fixed by these rules.	No substantive revision seems necessary.
Article 25	**Article 25: dissemination of judgements to judges**
The Executive Secretary shall send twice a year to all members of the Tribunal copies of all the decisions of the Tribunal during the preceding period.	No substantive revision seems necessary.
Article 26	**Article 26: other matters**
All matters which are not expressly provided for in the present rules shall be dealt with by decision of the Tribunal upon the particular case, by virtue of the powers conferred on it by article 6 of the Statute.	No substantive revision seems necessary.

Annex VII

Proposed capacity for peacekeeping and special political missions under the new system of administration of justice

Size of Mission (based on number of staff)	*Mission*	*Elements of the new system of administration of justice to be provided for within the mission's post structure (missions in italics reflect regional responsibilities)*			
		Office of the United Nations Ombudsman	*Office of Staff Legal Assistance*	*Legal adviser to head of mission on disciplinary matters*	*Remarks*
Large (authorized staff strength above 1,500)	United Nations Organization Mission in the Democratic Republic of the Congo	1 D-1/1 P-4/ 1 General Service	1 P-3/1 National Professional Officer/ 1 General Service	1 P-4	
	United Nations Mission in Liberia (UNMIL)	1 D-1/1 P-4/ 1 General Service *UNOCI, UNIOSIL*	1 P-3/1 National Professional Officer/ 1 General Service *UNOCI, UNIOSIL*	1 P-4 *UNOCI, UNMIS, UNIOSIL*	
	United Nations Mission in the Sudan (UNMIS)	1 D-1/1 P-4/ 1 General Service *UNMEE*	1 P-3/1 National Professional Officer/ 1 General Service *UNMEE*	To be covered by legal officer outposted to UNMIL	
	United Nations Interim Administration Mission in Kosovo	To be covered by Headquarters or the Regional and Deputy Regional Ombudsmen for Europe, based in Geneva and Vienna, respectively	To be covered by Headquarters or the staff legal assistance coordinator based in Vienna	To be covered by legal officer located in Geneva	
	United Nations Integrated Mission in Timor-Leste (UNMIT)	To be covered by Headquarters or the Regional Ombudsman for Asia and the Pacific, based in Bangkok		1 P-4	UNMIT legal adviser on disciplinary matters will also advise the heads of UNAMA and UNMIN

Size of Mission (based on number of staff)	*Mission*	*Elements of the new system of administration of justice to be provided for within the mission's post structure (missions in italics reflect regional responsibilities)*			*Remarks*
		Office of the United Nations Ombudsman	*Office of Staff Legal Assistance*	*Legal adviser to head of mission on disciplinary matters*	
	United Nations Stabilization Mission in Haiti	To be covered by Headquarters or the Regional Ombudsman, based in Santiago	To be covered by Headquarters or the staff legal assistance coordinator based in Santiago	To be covered by Headquarters legal officer	
	United Nations Operation in Côte d'Ivoire (UNOCI)	To be covered by the UNMIL Ombudsman	To be covered by UNMIL staff legal assistance		
Medium-sized (authorized staff strength from 1,000 to 1,500)	United Nations Interim Force in Lebanon	To be covered by Headquarters or the Regional Ombudsman for the Middle East, based in Beirut *UNTSO, UNDOF, UNFICYP, UNSCO*	To be covered by the staff legal assistance coordinator based in Beirut *UNTSO, UNDOF, UNFICYP, UNSCO*	To be covered by the legal officer located in Beirut	
	United Nations Assistance Mission for Iraq	To be covered by Headquarters or the Regional Ombudsman for the Middle East, based in Beirut	To be covered by the staff legal assistance coordinator based in Beirut	To be covered by the legal officer located in Beirut	
	United Nations Assistance Mission in Afghanistan (UNAMA)	To be covered by Headquarters or the Regional Ombudsman for Asia and the Pacific, based in Bangkok		UNMIT legal adviser will also advise the head of UNAMA	

Size of Mission (based on number of staff)	*Mission*	*Elements of the new system of administration of justice to be provided for within the mission's post structure (missions in italics reflect regional responsibilities)*			
		Office of the United Nations Ombudsman	*Office of Staff Legal Assistance*	*Legal adviser to head of mission on disciplinary matters*	*Remarks*
Small peacekeeping missions and special political missions	**United Nations Mission for the Referendum in Western Sahara**	**Coverage for small peacekeeping missions and special political missions to be provided by either larger missions in the region or regional/headquarters offices**			
	United Nations Integrated Office in Burundi				
	United Nations Peacebuilding Support Office in the Central African Republic				
	United Nations Integrated Office in Sierra Leone (UNIOSIL)				
	United Nations Peacebuilding Support Office in Guinea-Bissau				
	United Nations Political Office for Somalia				
	United Nations Mission in Ethiopia and Eritrea (UNMEE)				
	United Nations Office for West Africa				

Size of Mission (based on number of staff)	*Mission*	*Elements of the new system of administration of justice to be provided for within the mission's post structure (missions in italics reflect regional responsibilities)*			*Remarks*
		Office of the United Nations Ombudsman	*Office of Staff Legal Assistance*	*Legal adviser to head of mission on disciplinary matters*	
	United Nations Disengagement Observer Force (UNDOF)				
	United Nations Truce Supervision Organization (UNTSO)				
	United Nations Special Coordinator in the Occupied Territories (UNSCO)				
	Office of the Personal Representative of the Secretary-General for Lebanon				
	United Nations Tajikistan Office of Peacebuilding				
	United Nations Military Observer Group in India and Pakistan				
	United Nations Mission in Nepal (UNMIN)				
	United Nations Peacekeeping Force in Cyprus (UNFICYP)				
	United Nations Observer Mission in Georgia				

Annex VIII

Detailed financial implications

Table 1

Proposed programme budget for the biennium 2008-2009: requirements by budget section

(Thousands of United States dollars)

			2008-2009					
			Growth					
		2006-2007 revised appropriation	Proposed programme budget	Revised estimate (A/61/891)	Present report	Total before recosting	Recosting	Estimate
1.	Overall policymaking, direction and coordination	77 003.7	(4 386.8)	3 663.6	10 328.8	86 609.3	5 760.3	92 369.6
2.	General Assembly and Economic and Social Council affairs and conference management	602 512.5	(12 453.5)	884.1	1 614.5	592 557.6	30 943.7	623 501.3
8.	Legal affairs	42 153.0	74.8	—	558.7	42 786.5	2 640.5	45 427.0
17.	Economic and social development in Africa	107 404.2	1 806.3	—	257.0	109 467.5	10 299.1	119 766.6
18.	Economic and social development in Asia and the Pacific	74 664.8	696.2	—	274.3	75 635.3	5 852.2	81 487.5
20.	Economic and social development in Latin America and the Caribbean	97 180.1	289.3	—	280.3	97 749.7	6 053.3	103 803.0
21.	Economic and social development in Western Asia	56 324.6	485.3	—	287.3	57 097.2	2 965.1	60 062.3
28A.	Office of the Under-Secretary-General for Management	19 959.1	(6 876.5)	366.9	55.1	13 504.6	771.0	14 275.6
28C.	Office of Human Resources Management	67 557.4	4 434.8	253.0	—	72 245.2	4 653.6	76 898.8
28D.	Office of Central Support Services	245 408.8	2 061.7	689.1	1 705.5	249 865.1	17 296.2	267 161.3
28E.	Administration, Geneva	107 192.8	186.1	143.9	208.2	107 731.0	3 487.5	111 218.5
28F.	Administration, Vienna	35 297.4	(181.3)	—	18.8	35 134.9	1 437.7	36 572.6
28G.	Administration, Nairobi	19 645.2	4 296.1	—	271.1	24 212.4	3 171.7	27 384.1
35.	Staff assessment	436 347.5	6 438.3	784.0	784.4	444 354.2	19 083.7	463 437.9
Total		**1 988 651.1**	**(3 129.2)**	**6 784.6**	**16 644.0**	**2 008 950.5**	**114 415.6**	**2 123 366.1**

Table 2
Proposed programme budget for the biennium 2008-2009: summary by object of expenditure

	Resources (thousands of United States dollars)						
		Growth					
	2006-2007 revised appropriation	*Proposed programme budget*	*Revised estimates (A/61/891)*	*Present report*	*Total before recosting*	*Recosting*	*2008-2009 estimate*
Posts	1 042 671.7	14 445.6	1 694.1	4 715.0	1 063 526.4	61 438.2	1 124 964.6
Other staff costs	85 529.8	(14 138.6)	2 759.7	886.0	75 036.9	4 261.2	79 298.1
Non-staff compensation	402.3	—	202.5	2 438.7	3 043.5	293.3	3 336.8
Consultants and experts	11 275.9	(3 772.0)	—	346.9	7 850.8	769.9	8 620.7
Travel of representatives	9 324.5	(219.2)	99.0	—	9 204.3	1 292.8	10 497.1
Travel of staff	12 023.6	(18.2)	—	185.0	12 190.4	792.8	12 983.2
Contractual services	83 216.2	2 457.5	40.0	3 470.0	89 183.7	6 164.4	95 348.1
General operating expenses	186 157.2	3 756.0	994.8	2 859.7	193 767.7	13 944.5	207 712.2
Hospitality	635.0	(2.0)	—	—	633.0	43.4	676.4
Supplies and materials	22 562.4	(2 575.1)	22.6	40.0	20 049.9	1 400.9	21 450.8
Furniture and equipment	27 347.3	(5 938.4)	187.9	918.3	22 515.1	1 722.6	24 237.7
Grants and contributions	71 157.7	(3 563.1)	—	—	67 594.6	3 207.9	70 802.5
Other	436 347.5	6 438.3	784.0	784.4	444 354.2	19 083.7	463 437.9
Total	**1 988 651.1**	**(3 129.2)**	**6 784.6**	**16 644.0**	**2 008 950.5**	**114 415.6**	**2 123 366.1**

Table 3
Proposed programme budget for the biennium 2008-2009: post requirements

Grade	2006-2007 revised appropriation	Growth: Proposed programme budget	Growth: Revised estimates (A/61/891)	Growth: Present report	2008-2009 estimate
Professional category and above					
USG/DSG	11	(1)	—	—	10
ASG	7	—	—	1	8
D-2	31	2	—	—	33
D-1	105	2	3	7	117
P-5	381	9	3	5	398
P-4/3	1 411	18	0	30	1 459
P-2/1	228	2	0	3	233
Subtotal	**2 174**	**32**	**6**	**46**	**2 258**
General Service category					
Principal level	167	(1)	—	1	167
Other level	1 510	(9)	4	11	1 516
Subtotal	**1 677**	**(10)**	**4**	**12**	**1 683**
Other categories					
Security Service	—	—	—	—	—
Local level	1 030	34	1	10	1 075
Field Service	3	—			3
National Officer	—	5	—	—	5
Trades and Crafts	176	—	—	—	176
Subtotal	**1 209**	**39**	**1**	**10**	**1 259**
Total	**5 060**	**61**	**11**	**68**	**5 200**

Table 4
Peacekeeping support account: requirements by object of expenditure for the period January to June 2009

(Thousands of United States dollars)

Object of expenditure	Existing resources for administration of justice	Resource growth	Total revised estimates
Posts	—	629.6	629.6
Official travel	—	15.0	15.0
Consultants (training)	—	143.4	143.4
Information Technology	—	23.1	23.1
Total	**—**	**811.1**	**811.1**

Table 5
Peacekeeping support account: post requirements for the period January to June 2009

	Existing	*MONUC*	*UNMIL*	*UNMIS*	*UNMIT*	*Total*
Professional and higher						
D-1	—	1	1	1	—	3
P-4	—	2	2	1	1	6
P-3	—	1	1	1	—	3
National Officer	—	1	1	1	—	3
Subtotal	**—**	**5**	**5**	**4**	**1**	**15**
General Service and related						
National General Service	—	2	2	2	—	6
Subtotal	**—**	**2**	**2**	**2**	**—**	**6**
Total	**—**	**7**	**7**	**6**	**1**	**21**

Annex IX

Organization charts

Judiciary

New York

3 United Nations
Dispute Tribunal judges (D-2 level)

Geneva

3 United Nations
Dispute Tribunal judges (D-2 level)

Nairobi

3 United Nations
Dispute Tribunal judges (D-2 level)

Office of Administration of Justice / Registry

(Totality of post resources reflects all sources of funds)

1 ASG Executive Director
1 P-5 Special Assistant
1 GS (OL) Administrative Assistant

United Nations Dispute Tribunal Registry

New York

1 D-1 Principal Registrar
1 P-4 Legal Research Officer
1 P-4 IT Officer
1 P-3 Legal Research Officer
4 GS (OL): 3 Legal/Administrative Assistants, 1 IT Assistant

Geneva

1 P-5 Geneva Registrar
1 P-4 Legal Research Officer
1 P-3 Legal Research Officer
2 GS (OL) Legal Assistants

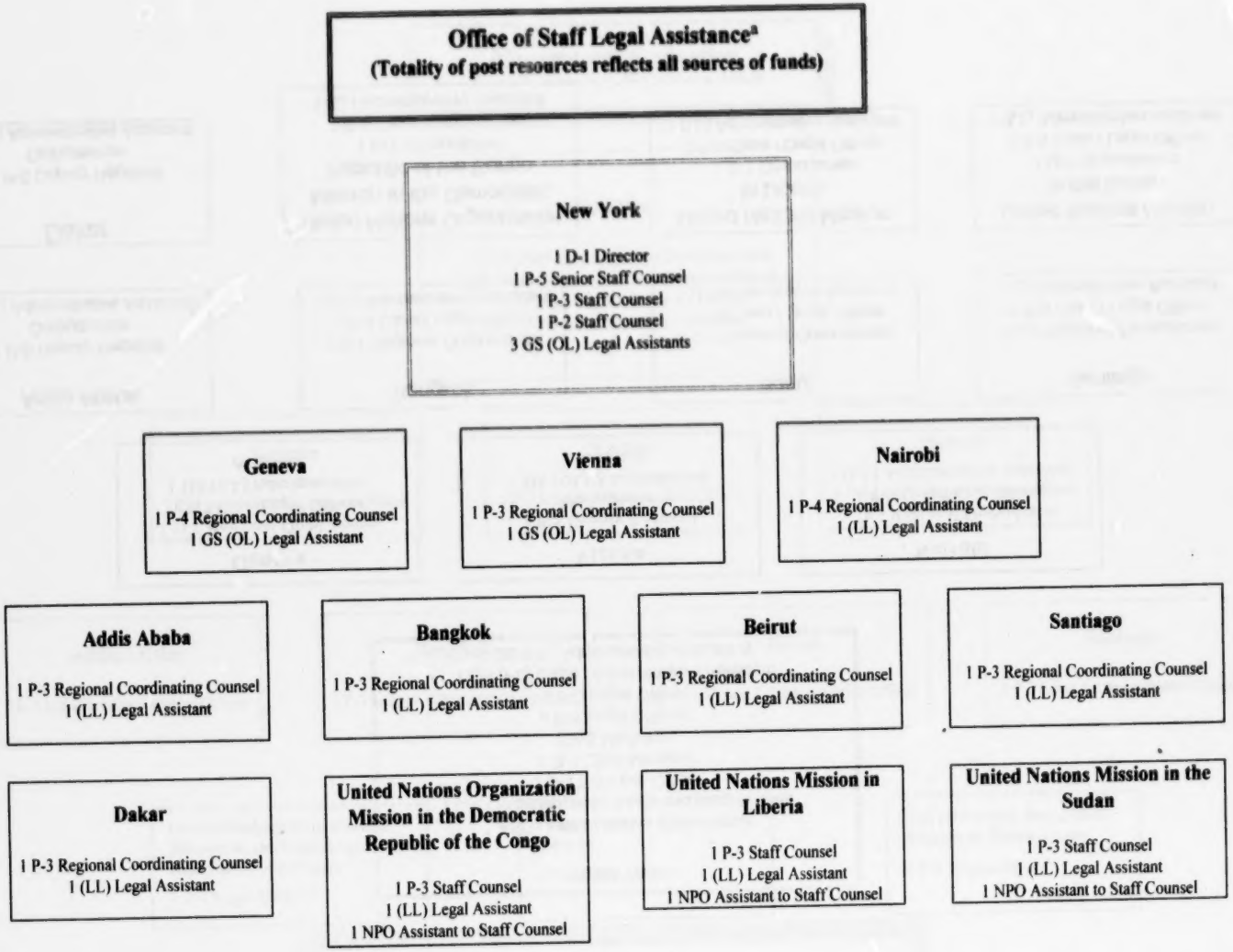
Nairobi

1 P-5 Nairobi Registrar
1 P-4 Legal Research Officer
1 P-3 Legal Research Officer
2 (LL) Legal Assistants

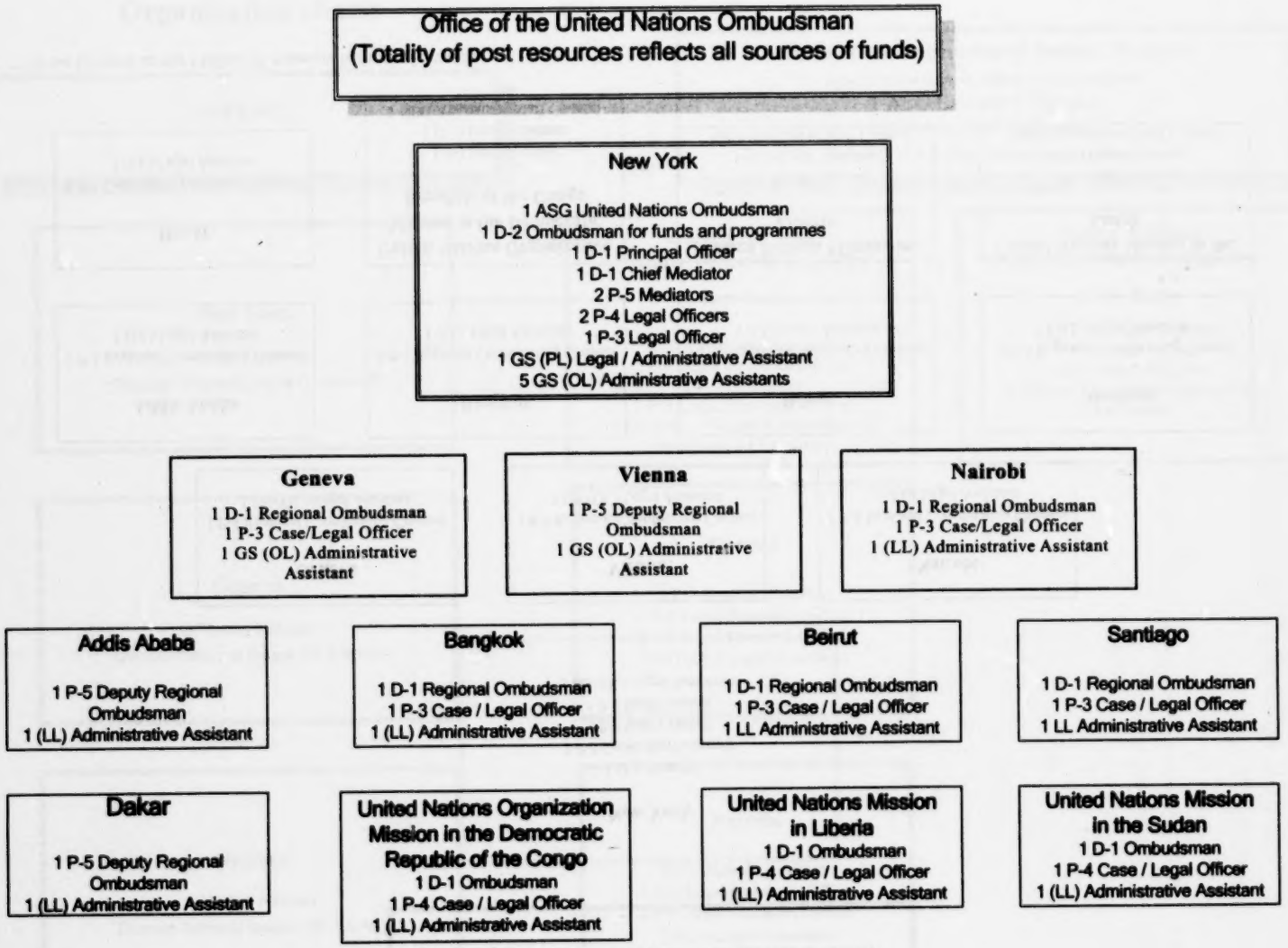
United Nations Appeals Tribunal Registry

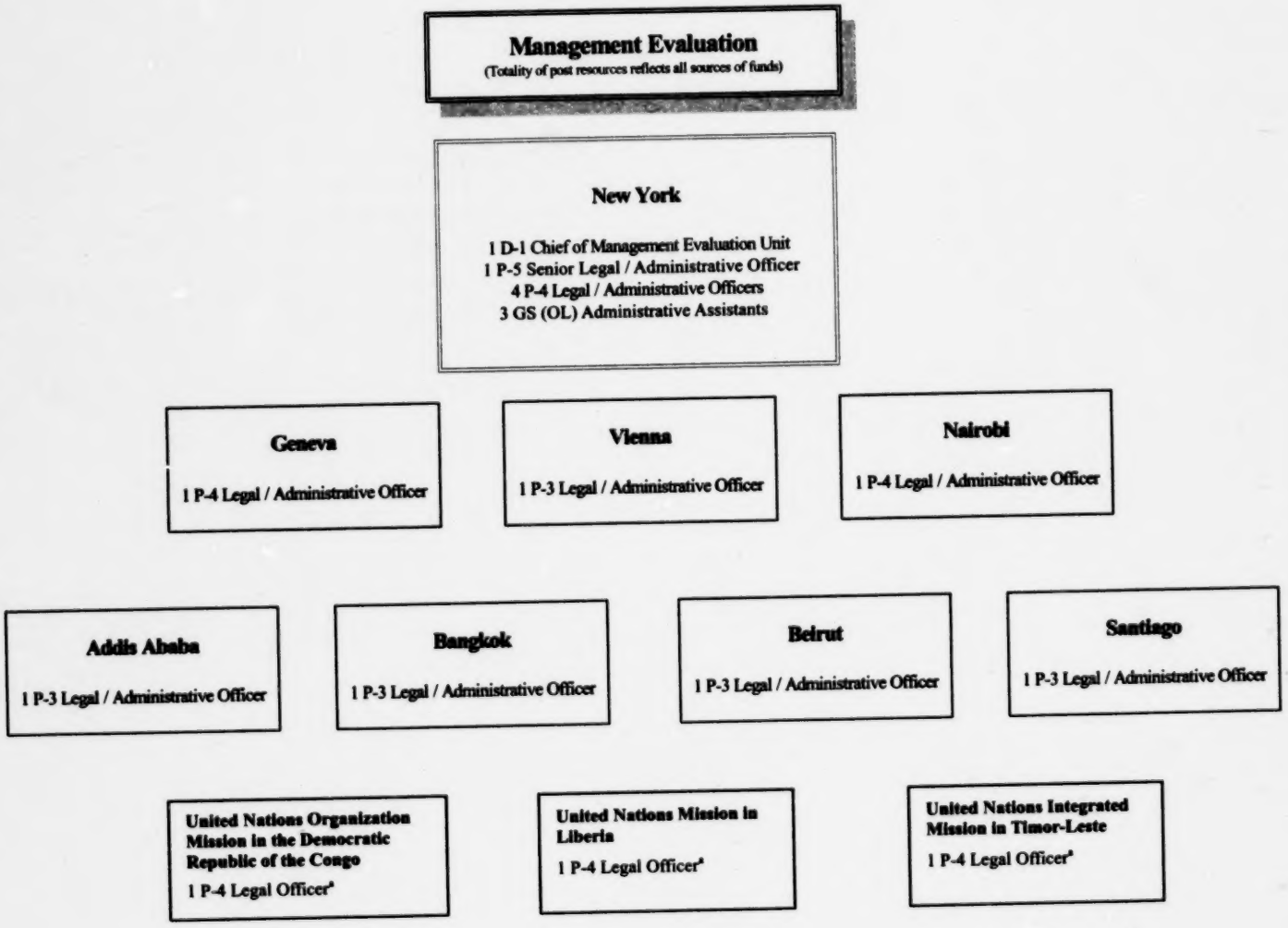
New York

1 D-1 Principal Registrar
1 P-4 Legal Officer
2 P-2 Legal Officers
3 GS (OL) Legal/Administrative Assistants


Office of Staff Legal Assistance[a]
(Totality of post resources reflects all sources of funds)
New York
1 D-1 Director
1 P-5 Senior Staff Counsel
1 P-3 Staff Counsel
1 P-2 Staff Counsel
3 GS (OL) Legal Assistants
Geneva
1 P-4 Regional Coordinating Counsel
1 GS (OL) Legal Assistant
Vienna
1 P-3 Regional Coordinating Counsel
1 GS (OL) Legal Assistant
Nairobi
1 P-4 Regional Coordinating Counsel
1 (LL) Legal Assistant
Addis Ababa
1 P-3 Regional Coordinating Counsel
1 (LL) Legal Assistant
Bangkok
1 P-3 Regional Coordinating Counsel
1 (LL) Legal Assistant
Beirut
1 P-3 Regional Coordinating Counsel
1 (LL) Legal Assistant
Santiago
1 P-3 Regional Coordinating Counsel
1 (LL) Legal Assistant
Dakar
1 P-3 Regional Coordinating Counsel
1 (LL) Legal Assistant
United Nations Organization Mission in the Democratic Republic of the Congo
1 P-3 Staff Counsel
1 (LL) Legal Assistant
1 NPO Assistant to Staff Counsel
United Nations Mission in Liberia
1 P-3 Staff Counsel
1 (LL) Legal Assistant
1 NPO Assistant to Staff Counsel
United Nations Mission in the Sudan
1 P-3 Staff Counsel
1 (LL) Legal Assistant
1 NPO Assistant to Staff Counsel

[a] To be located in the Office of Administration of Justice.


Office of the United Nations Ombudsman
(Totality of post resources reflects all sources of funds)
New York
1 ASG United Nations Ombudsman
1 D-2 Ombudsman for funds and programmes
1 D-1 Principal Officer
1 D-1 Chief Mediator
2 P-5 Mediators
2 P-4 Legal Officers
1 P-3 Legal Officer
1 GS (PL) Legal / Administrative Assistant
5 GS (OL) Administrative Assistants
Geneva
1 D-1 Regional Ombudsman
1 P-3 Case/Legal Officer
1 GS (OL) Administrative Assistant
Vienna
1 P-5 Deputy Regional Ombudsman
1 GS (OL) Administrative Assistant
Nairobi
1 D-1 Regional Ombudsman
1 P-3 Case/Legal Officer
1 (LL) Administrative Assistant
Addis Ababa
1 P-5 Deputy Regional Ombudsman
1 (LL) Administrative Assistant
Bangkok
1 D-1 Regional Ombudsman
1 P-3 Case / Legal Officer
1 (LL) Administrative Assistant
Beirut
1 D-1 Regional Ombudsman
1 P-3 Case / Legal Officer
1 LL Administrative Assistant
Santiago
1 D-1 Regional Ombudsman
1 P-3 Case / Legal Officer
1 LL Administrative Assistant
Dakar
1 P-5 Deputy Regional Ombudsman
1 (LL) Administrative Assistant
United Nations Organization Mission in the Democratic Republic of the Congo
1 D-1 Ombudsman
1 P-4 Case / Legal Officer
1 (LL) Administrative Assistant
United Nations Mission in Liberia
1 D-1 Ombudsman
1 P-4 Case / Legal Officer
1 (LL) Administrative Assistant
United Nations Mission in the Sudan
1 D-1 Ombudsman
1 P-4 Case / Legal Officer
1 (LL) Administrative Assistant


Management Evaluation
(Totality of post resources reflects all sources of funds)
New York
1 D-1 Chief of Management Evaluation Unit
1 P-5 Senior Legal / Administrative Officer
4 P-4 Legal / Administrative Officers
3 GS (OL) Administrative Assistants
Geneva
1 P-4 Legal / Administrative Officer
Vienna
1 P-3 Legal / Administrative Officer
Nairobi
1 P-4 Legal / Administrative Officer
Addis Ababa
1 P-3 Legal / Administrative Officer
Bangkok
1 P-3 Legal / Administrative Officer
Beirut
1 P-3 Legal / Administrative Officer
Santiago
1 P-3 Legal / Administrative Officer
United Nations Organization Mission in the Democratic Republic of the Congo
1 P-4 Legal Officer[a]
United Nations Mission in Liberia
1 P-4 Legal Officer[a]
United Nations Integrated Mission in Timor-Leste
1 P-4 Legal Officer[a]

[a] Also provide advice on disciplinary decisions.